

From: Marie Crawford
Sent: Saturday, August 22, 2009
Subject: Notice 2009-60

I fully agree that we need to have some type of examination for people who prepare tax returns that are not CPA's, Enrolled Agents or Attorneys. There are too many people who just open an office during tax season and are gone after that time. Some of these people have no understanding of tax laws and how they impact a person's tax return

From: Alicia Dishman
Sent: Sunday, August 23, 2009
Subject: Preparers Review

I provide tax services to friends and associates and have been for years. I do not mind a review of myself by my clients and/or the IRS. However I do not wish to have private CPA firms pushing us out of the market to prevent us from providing services in competition to them. One need not be a CPA to use software and research the laws and retain it. I search and read for each of my clients particular situation and use the IRS website for all questionable transactions. If this is a way to reduce jobs at the IRS and reduce the size of the information available to us i oppose any and all standards that would do so. I oppose the payment of this vital information or a service fee to obtain it. I and my clients pay taxes t have this info. at our hand(s). The larger firms can afford this but us little guys cannot. I would love to attend the hearing but i cannot as I am disabled and I stay in my little home and help a few people afford to pay me for their tax returns which gives me a tiny bit of income to supplement my SSDI. Please do not ruin our lives with any and all regulations that could take our income away to the larger firms who can afford the new regs. I await further details of the hearing(s).

Thanks for listening
Alicia Dishman
Hedgesville, WV
EA Office Solutions

From: DAVID DREYER
Sent: Sunday, August 23, 2009
Subject: Notice 2009-60

Thank you for the opportunity to voice my opinion. I am a unenrolled preparer who got his start at a major chains tax prep school. From there I got a position at a independant office. Fortunately there was many years of experiance I could draw upon. I am assuming this to be the case of many unenrolled preparers. Our office does not do raJ's. we do not charge for efilng and our prices are less than half of the major chains. I have been preparing taxes for 10 years now and have averaged approx. 800 personal returns for the last few years. This brings me to two issues currently in front of the IRS, competency testing and continuing education. I believe for a preparer who has been preparing returns for a number of years(to be detennined by the IRS), who has not been dishonest should be grandfathered in where they do not have to take a comptancy test, preparing personal returns for a number of years compliant with the tax code should prove comptancy and ethics. 1m in favor of continuing education, detenn ined by the IRS. There are some dishonest preparers, we see this when new people come to us after being audited because ofridiculously high or dishonest deductions. Many taxpayers know whats on thier tax return and some can't believe it. Some dishonest taxpayers find dishonest preparers, a bad combination. Some are mislead. We commend the IRS for its enforcement ofunscrupolus preparers and wish to see more of it. Certainly I would not put my clients at risk of an audit because of a dishonest person. In closing let it be known that this is a second job for me, I put in long hours 7 days a week during tax season and am available off season, I hardly see my family during the season and also take my vacation time to prepare taxes. Will I have sufficient time and energy to go to school and study for a hard comptency test, I think not, I would probably drop out of the buisness, of course this would make many liscenced proffesionals happy I suppose.

Sincerely,
David Dreyer

August 23, 2009

To Whom It May Concern:

I am writing to voice my concerns regarding the latest attempt to "advance tax preparer performance standards". I am a 62 year old tax professional. I have been preparing returns since 1969. Although I am not a CPA or an enrolled agent, I have been trained by a CPA and have always worked in CPA firms. I continue to do so today. I also prepare returns outside of my normal work and operate as a sole proprietor. I prepare between fifty (50) and sixty (60) returns each year. Having worked in Pennsylvania for many years, upon moving to Ohio, many of my clients wanted me to continue my work for them because they respected my performance and honesty as a tax preparer. That speaks for itself. I am able to supplement my income by doing sole proprietor work. I attend CPE courses and continue to update my training. I have worked with the IRS code for many, many years and believe my work to be above reproach. I am competent. My observation of the tax preparation profession over the years is this. Yes, there are return preparers that incorrectly prepare tax returns. Some even do so intentionally. The problem exists not only within the unenrolled tax preparers society but within the CPA and the enrolled agents society as well. However, overall, tax preparers of all species do a very commendable job. IRS has no idea what we as tax preparers go through with Mr and Mrs Public. We overall do a very commendable job. Your bigger problem has to be with people who prepare returns for themselves. You say, that sixty two percent (62%) of returns are completed by tax return preparers. That leaves thirty eight percent (38%) of returns being filed by individuals who have no concept of, or training with the IRS code. With today's IRS code, that is unbelievable. There is your bigger problem.

I have had returns prepared by CPA's, enrolled agents and non-enrolled agents alike, brought to me for one reason or the other. There are plenty of inconsistencies with any of those returns. However, the bigger problems lies with returns that I have seen that have been prepared by the taxpayer themselves. Wow, what a nightmare. I have to believe that IRS knows who the unenrolled tax preparers are who are not competent. You have laws and regulations that already exist that can handle the problem. However, let me now speak to a bigger problem. When I was trained in school and mentored by my CPA employers, I was fortunate to have been trained by people of integrity. I was trained to prepare a return with the goal of preparing an accurate return rather than the goal of seeing how much of a refund I could get for my client. That is key. Today, the emphasis among all types of preparers seems to be, how much of a refund they can get for their client. We even see organizations advertising how much money they can get back for clients. With that kind of attitude, no amount of testing, degrees or titles will solve anything. It remains, as always, a matter of integrity. I find that taxpayers who do not want to file an accurate return know how to seek out those who are less than honest. When a client does not want to file an honest return I tell them to go somewhere else. If a client has a tax matter that is above my competency, I refer them to a preparer that I believe can help them. It is that simple. If you insist upon testing the unenrolled preparers, which is what I perceive your intention to be, I trust you will take into consideration those of us who are unenrolled, have been in the profession for many years, yet perform to a high level of competency. It is by far the younger preparer among all types of preparers, who has no concept of right and wrong much less understand the intention of the tax code. I would further state that testing, if required, only be required for those who prepare more than one hundred (100) returns a year.

Finally, I would suggest that IRS be thankful for the fine job and service that tax preparers in general give taxpayers as well as IRS. There also remains much incompetence within IRS. However, as I have always felt, IRS overall also does a commendable service. Let's move on and continue to do the fine service we both have always done.

Sincerely,

Clemens B Farver

From: PENNY
Sent: Monday, August 24, 2009
Subject: PUBLIC COMMENT

Require all tax preparers to be IRS licensed and fingerprinted or background checked, including all employees of large franchise groups who will be working as tax preparers. Preparers would have to take an IRS test given by the IRS, not the employer, which would demonstrate at least a minimum competency. There could be several levels of tests for different levels of licensing. The lowest levels would not be permitted to be self-employed.

Sincerely, Janis Cooper, EA

August 24, 2009

Honorable Douglas Shulman
CCPA:LPD:PR (Notice 2009-60)
Room 5203

Re: Internal Revenue Service Public Forum on Tax Return Preparer Review
CCPA:LPD:PR (Notice 2009-60)

Dear Commissioner Shulman:

The Tax Committee of the Oklahoma Society of Certified Public Accountants appreciates the opportunity to provide these comments for the forum to discuss proposals for ensuring that all tax return preparers are both ethical and competent. Because tax return preparers play an important role in the efficient and effective administration of the tax laws, these proposals complement the efforts of the Internal Revenue Service to regulate tax preparers, increase the level of compliance of taxpayers, and reduce the amount of underreporting or non-reporting of taxable income. The Oklahoma Society of Certified Public Accountants is the state professional association of certified public accountants comprised of approximately 6,500 members. Our members advise clients on federal, state, and international tax matters and prepare income and other tax returns for hundred of thousands of taxpayers. They provide services to individuals, not-for-profit organizations, and a large variety of businesses. Our organization clearly supports the associated goals of increasing compliance and maintaining high ethical standards for all tax practitioners. We and our national professional organization, the American Institute of Certified Public Accountants, strongly supports the maintenance of high professional standards for our members as it establishes and enforces such standards through our Code of Professional Conduct and Statements on Standards for Tax Services. Concerns have continued to be voiced by the Internal Revenue Service and Congress in regards to the high error rate associated with the Earned Income Tax Credit claims and consumer protection concerns associated with Refund Anticipated Loans. With regards to both of these matters we believe specific legislation is the best solution to simplify the Earned Income Tax Credit to avoid mistakes by preparers and allow the Internal Revenue Service to more easily monitor and identify inaccurate calculation of the credit. Further, specific legislation could also be developed to better regulate the use of Refund Anticipation Loans, as well as provide better education through the use of public service announcements of the true cost of obtaining these loans. We believe the Internal Revenue Service already has sufficient authority to regulate federal tax return preparers without the need for an additional legislative grant of authority. First, the IRS has the ability to regulate tax preparers through the penalty process under current law. The government also regulates certain practitioners through the IRS's Office of Professional Responsibility. This Office enforces Circular 230 which governs the practice by CPAs, attorneys, and enrolled agents before the IRS. The Office has the authority to identify standards of performance and discipline these Circular 230 practitioners through disbarment and other sanctions. We recommend that the Office's oversight responsibilities be extended to include unlicensed tax return preparers. Further, this office could serve to respond to complaints by taxpayers of inappropriate actions of tax preparers, similar to the role of the Oklahoma Accountancy Board serves the public who utilize the services of a CPA or the state bar for attorneys. CPAs, attorneys, and enrolled agents should be exempt from any new federal regulation regime imposed on currently unlicensed tax preparers. The bills introduced in the last Congress properly recognize that these professional are already subject to regulation and standards imposed upon them by state boards of accountancy, state bars, court systems, and Circular 230. We strongly advise against any result which would impose duplicative regulatory regimes on CPAs, attorneys, and enrolled agents.

We again wish to thank the Commission for allowing us to submit these comments.

Sincerely,
C. Edd Painter, CPA, Chair
OSCPA Taxation Committee

Sent: Monday, August 24, 2009
Subject: (no subject)

I WANT TO COMMENT REGARDING THE UPCOMING HEARINGS CONCERNING ETHICS AND STANDARDS FOR TAX RETURN PREPARERS. PLEASE CONSIDER AND KEEP IN MIND THE MANY HUNDREDS OF AARP VOLUNTEER PREPARERS. AARP REQUIRES ATTENDING A FIVE DAY SCHOOL AND PASSING TESTS BEFORE ALLOWING VOLUNTEERS TO ASSIST TAXPAYERS. I AM HOPING ANY NEW SCHOLASTIC REQUIREMENTS AND OR TESTING WILL BE CONSISTENT WITH THE AARP GUIDELINES. I PERSONALLY HAVE AMENDED MANY RETURNS PREPARED BY: CPA', HR BLOCK, LIBERTY TAX SERVICE. THE WORSE OFFENDER BEING LIBERTY TAX SERVICE. THEY IMPOSED A FEE OF \$ 85.00 ON A SENIOR CITIZEN WHO DID NOT HAVE ANY FEDERAL LIABILITY NOR REFUND DUE HIM. THEY DID NOT FILE FOR HIS STATE SENIOR REFUND (MO PTC) AS ALLOWED BY MO. STATE LAW. AWAITING YOUR DECISION.

From: Jeannine Silkey
Sent: Monday, August 24, 2009
Subject: Notice 2009-60

I would like to offer the following comments on the above subject:

I disagree, even CPAs and perhaps Enrolled Agents should be required to take a test from time to time. Enrolled Agents SPECIALIZE in taxes, ALL CPAs do not. I had the misfortune of doing over 500 tax returns (which, I feel, is too many) one tax season in a CPA firm. There was NO office meeting or training before tax season to get everyone on the same page, nor to review tax changes or how to manage the clients and what advice to give them going forward. The CPA was young and paid too much for the client list he purchased. While I can appreciate that, he still needed to keep up with the individual income taxes more than he was. He would work up estimated tax payments for truckers without understanding what their settlement statements were saying. Honestly and truly, he did not recognize Maintenance Escrow, question what exactly is that, note how much was in it, how much was drawn out, and WHAT it was used for. Now, CPA's, as he said, are not supposed to take on work they are not specialized in. Could one consider the actions described here just that, unwittingly on his part. Enrolled Agents' continuing education to remain certified is ALL in Federal Taxation and Ethics. CPAs' continuing education can include learning how to use Excel, learning how to manage a firm. These things do NOT relate to federal taxation. Nor do the college courses required of CPAs in taxation begin to match what is required to pass the SEE. Perhaps the solution is to require CPAs that do Forms 1040 to register for a special permission or licensing and be held accountable for increasing and staying current with their tax knowledge, similar to Enrolled Agents. One final example, I had a client come to me with some tax returns a CPA had done, not only did this CPA NOT understand escrow accounts for owner-operators, he told the taxpayer that he should incorporate, file as an S corporation, pay himself \$12000 a year and let the rest flow through NOT subject to FICA. This

conversation occurred in the Winter of 2009. We all make mistakes and can improve our knowledge. The lack of understanding settlement statements is an attention thing, something that gets learned by those that want to "have it right." The S corporation advice, however, I would think would be, with all that has been published and warned about reasonable compensation, a significant deficiency? CPA's get away with things, such as "if it's a printer under \$500, just expense it, don't depreciate." Well, that's fine until the IRS Examiner (rightfully or wrongfully, depending on who one talks to) says you can't move it from a supply to Section 179? It's NOT the same difference. With the new rules for amending Section 179, that may be changing. However, there is also the concern of tracking that expense for disposition gain. That the taxpayer is ultimately responsible for signing something he or she might not understand, even with hours of explanation, is NOT a good situation. But I don't think we can deny a self-employed person, when he or she is earning a living the only way that works for him or her, an income because he or she doesn't understand depreciation and other things about accounting and finances, such as cash versus accrual, etc. These people are PRIME candidates for NOT understanding what they are signing. FEEDBACK: Even given the current system, with tax preparers having PTINs, unless a client calls us with an IRS issue, we rarely get feedback on the returns we are done. Feedback is an important part of learning. If there was a way of providing feedback WITHOUT begin punitive about it, it would be wise to implement it. The only thing I can think of is a confidential report to each PTIN holder, tax year, returns adjusted, type error, found by (exam/computer calculation), amount, cost to taxpayer, issue (such as missing receipts, information document miskeyed, disallowed dependent). Just general things so that we know if we are not doing as well as we'd like. NO ONE or organization has to assign a rating to them. JUST FEEDBACK!!! (Most of my clients, now that I'm working from home, will come to me if they hear from the IRS, but there is never a guarantee and I've heard horror stories about things but those people never took the issues up with the appropriate tax preparer). As to the high costs of fees for using bank products. I will NOT offer any bank products. I don't believe in them. I realize some taxpayers use them because of they are behind in the rent, but it's too much hassle. THE ONES I AM CONCERNED ABOUT are the ones that use banks products just because they do not have the funds to pay for the preparation of their tax return at the time the taxes are prepared. There needs to be another solution. E-filing has the beauty of accuracy. Perhaps every efiler should have a bank account into which the IRS would deposit a maximum of \$150 as fee for the return that is prepared IF ASKED TO DO SO by the taxpayer. Granted, those charging \$250 or other

numbers for their returns might not like it, but ... something needs to be done. The best I can do is to "HOLD CHECKS." This could hurt the big boys, H&R Block, Hewitt Jackson, but ... maybe it will get the brainstorming going to come up with a solution that works and does not have to be changed or altered every year or two. The VITA training, while good (and I do refer people to it), is not the depth that is needed in general. And it knows it. H&R Block has excellent training, the difficulty is that it takes more than 156 hours to really get started and owning your knowledge in this business. And H&R Block knows it. They get beginners started, then the following year they must take a course that was called a few years ago, "Everyone's Return," that delves into more detail on the basic returns. It is a requirement if the preparer wishes to continue with H&R Block. While I was working with them, some of us decided it was a good idea to RETAKE BASIC every three to four years. You always want the basics on the tip of your tongue, and if watch, you can see a lot of "um, ah, I'll get back with yous" coming from managers and older preparers that do NOT have adequate review from time to time. For that matter, I can see an Enrolled Agent OBJECTING to PAYING to retake the SEE as annual continuing education is a substantial expense, but not to taking it. Perhaps they could be allowed to retake it at no charge IF it is desirable to have them do that. Personally, I don't think they need to, but I DO THINK CPAs must have a professed specialization in taxation and the continuing education to support that specialization before they are allowed to NOT be included in the National Preparer Certification Programs being discussed. As Mr. Wanchek stated: "In an era of tax filing software and rapid e-filing, it's critical that preparers actually understand the complex rules." THIS IS SO TRUE! I charge very simply for Individual Tax Returns, Form 1040, Schedules A through F, H, Form 2555, Form 3115 (when required) and then time if there is extra work or research involved OR I support the client all year-round answering payroll tax questions. I don't charge for Earned Income Credit, I don't charge for W-2s, I don't charge for Additional Child Tax Credit, only charge for Form 6251 if there's additional research required to make sure we are correct. Nor do I charge for e-filing and I sometimes provide postage for clients mailing their return (if they ask). In other words, I'm not getting rich doing this and that's fine. However, the continuing education does cost, and it's important to travel to it as the interaction with other Tax Professionals is an important part of learning, growing and do one's own job better.

From: Mabel Sawyer
Sent: Monday, August 24, 2009 4:01 PM
Subject: Unlicensed" Paid Preparer and testing

The comment I would like to add:

I know several well seasoned, excellent tax preparers who are tax preparers plus excellent accountants who do this for a living who are not licensed, but have excellent ethical track record, clean record with IRS and etc plus hold ACAT credentials. What group is proposed to be grandfathered in? If IRS has kept track via the identification number, example P 12345 and a CAF number, they have record of the quality of tax preparation work one does. . Organizations such as NSA, NATP, NSTP, and NAEA have a mix membership base who keep up the required annual required CPE credits. Why would the group of "unlicensed preparer who has been active in the business for the last ten years making this their living be asked to take a test to prove one more layer of documentation. Grandfathering this group should be considered of anyone in the business ten years or more. Testing the 900,000 or more unlicensed preparers would be a major undertaking with timely results. Why put a good person out of business!

SMALL BUSINESS CONSULTANT
Mabel MSawyer. MBA. ATP. CTP. CPS

From: Connie Hobbs
Sent: Monday, August 24, 2009
Subject: Notice 2009-60

Attorneys, CPA's, and enrolled agents are already under IRS oversight. No further regulations or changes should be made. If a taxpayer is comfortable with paying someone who is not in one of these categories to prepare their taxes, then they take their chances. This system has worked for many years without additional government regulations.

RICHARDSON ACCOUNTING
& TAX SERVICE LEGAL PROCESSING DIVISION
AUGUST 24, 2009
CCPA:LPD: PR (NOTICE 2009-60)
SUBJECT:
ATTENTION:

REQUESTS FOR PUBLIC COMMENT.
TAX PREPARERS CODE OF ETHICS
RICHARD S. GOLDSTEIN
ASSOC. CHIEF COUNSEL
(PROCEDURE & ADMINISTRATION)

THANKS FOR ASKING FOR OUR COMMENTS REGARDING THE INTERNAL REVENUE SERVICE'S REVIEW OF ISSUES CONCERNING TAX RETURN PREPARERS AND INCREASED TAXPAYER COMPLIANCE.

1. HOW THE TAX RETURN PREPARER COMMUNITY CAN ASSIST IN INCREASING TAXPAYER COMPLIANCE:

ANY COMMENTS THAT I WILL BE GIVING ON THESE SUBJECTS ARE BASED ON MY 34 YEARS OF SERVICE IN THE ACCOUNTING & TAX BUSINESS. IN ORDER FOR THE TAX PREPARER TO BE ABLE TO EXPRESS THE IMPORTANCE OF TAXPAYER COMPLIANCE, THEY MUST KNOW THE LAWS CONCERNING WHAT BEING IN COMPLIANCE WITH THE INTERNAL REVENUE SERVICE IS ALL ABOUT. FIRST OF ALL, THE MAJORITY OF OUR MIDDLE CLASS WORKING TAXPAYERS ARE TERRIFIED OF THE I.R.S. NOT BECAUSE THEY ARE DOING ANYTHING WRONG, BUT BECAUSE THEY DON'T KNOW THE LAWS OF COMPLIANCE.

I THINK ANYONE WHO IS EMPLOYED IN ACCOUNTING & TAX PREPARATION SHOULD BE WELL EDUCATED ON WHAT CAN HAPPEN TO A TAXPAYER FOR NOT FILING THEIR TAX ON TIME, THE IMPORTANCE OF KEEPING GOOD RECORDS, KEEPING RECEIPTS & A GOOD MONEY TRAIL BY HAVING ALL INCOME RUN THROUGH A CHECKING OR SAVINGS ACCOUNT.

OUR OFFICE PUT OUT ADVERTISEMENT AT THE BEGINNING OF 2008 CONCERNING STAYING IN COMPLIANCE WITH THE INTERNAL REVENUE SERVICE. OUR MAIN PURPOSE WAS TO GET TO THE TAXPAYERS WHO HAD NOT FILED THEIR TAX IN YEARS. WE WERE ABLE TO HELP SEVERAL CLIENTS GET THEIR TAX RETURNS UP TO DATE. WE DID THIS IN THE FOLLOWING WAY:

1. WE EXPLAINED TO THEM WHAT COULD HAPPEN IF THEY DID NOT FILE ALL THE YEARS THAT THEY WERE BEHIND.
2. WE ALSO EXPLAINED THAT THE TAX LIABILITY, IF ANY, COULD BE SET UP ON THE INSTALLMENT AGREEMENT PLAN WITH THE INTERNAL REVENUE SERVICE.
3. WE PREPARED THESE PAST DUE RETURNS AT A CHEAPER RATE THAN OUR NORMAL RATE.

WE WERE ABLE TO SHOW SOME OF THESE CLIENTS HOW THEY LOST MONEY BY NOT FILING BEFORE THE 3 YEAR LIMIT RAN OUT.

2. HOW TO ENSURE THAT TAX RETURN PREPARERS MEET BOTH UNIFORM AND *mCH* ETHICAL STANDARDS OF CONDUCT:

1. WE HAVE FOUND THAT THERE ARE A LOT OF INDIVIDUALS, WHO CALL THEMSELVES TAX PREPARERS, AND DON'T EVEN KNOW THE TAX LAWS. THEY ONLY RELY ON TAX PROGRAM SOFTWARE TO GET THEM THROUGH A RETURN. IF YOU DON'T KNOW WHAT IS DEDUCTIBLE AND WHAT ISN'T. THE RETURN CAN NOT BE CORRECT. SOME OF THESE INDIVIDUALS WORK FOR THEMSELVES, HOWEVER SOME ALSO WORK FOR TAX PREPARATION COMPANIES.
2. FROM THE APPEARANCE OF SOME OF THE RETURNS THAT WE HAVE BEEN ABLE TO SEE, THEY COULD NOT HAVE BEEN MONITORED AT ALL.
3. THIS TAKES US BACK TO YOUR QUESTION NUMBER ONE ABOVE. WHEN AN ORGANIZATION HIRES SOMEONE TO PREPARE INCOME TAX OF ANY KIND, I

THINK THAT'S WHEN THEY SHOULD BE MONITORED. IT SHOULD BE A BACKGROUND CHECK AND THEY SHOULD BE GIVEN A TEST TO SEE IF THEY KNOW ANYTHING ABOUT TAXES. I DON'T THINK IT SHOULD STOP THERE. THEIR TAX RETURNS SHOULD BE CHECKED BY A PROFESSIONAL AT THE PLACE OF EMPLOYMENT.

4. I DO THINK THAT ALL TAX PREPARERS SHOULD GIVE THEIR CLIENTS A COPY OF THEIR PRIVACY POLICY. I, ALSO, THINK ALL TAX PREPARERS, WHETHER THEY BE AN ACCOUNTANT, CPA, ATTORNEY OR JUST A PREPARER, THEY SHOULD BE BOUND BY PROFESSIONAL STANDARDS OF CONFIDENTIALITY AS REQUIRED BY LAW.

MR. GOLDSTEIN, I WOULD LIKE TO ADD ANOTHER SUBJECT TO MY LETTER FOR REVIEW.

3. HOW CAN THE INTERNAL REVENUE SERVICE HELP WITH BOTH OF THESE MATTERS??

<FROM MY OWN EXPERIENCE WITH THE INTERNAL REVENUE SERVICE:>

MY FIRST YEAR OF WORKING IN ACCOUNTING & TAX PREPARATION: 1975

I HAVE DEVOTED ALL THESE YEARS WORKING WITH THE CLIENTS AND ALSO THE INTERNAL REVENUE SERVICE. I HAVE ADVISED ALL MY CLIENTS THE IMPORTANCE OF STAYING IN COMPLIANCE WITH THE IRS LAWS. I'VE TOLD THEM THAT THE IRS WAS NOT THE "BIG BAD WOLF" THAT MOST AMERICANS THINK THEY ARE. IT'S THE LAW...YOU HAVE TO FILE YOUR TAX EVERY YEAR. IF YOU OWE TAX AND CANNOT PAY AT THE TIME THE TAX RETURN IS DUE, THE IRS WILL LET YOU PAY BY SENDING IN FORM 9465, INSTALLMENT AGREEMENT REQUEST.

WE TRY TO HELP BOTH THE CLIENT AS WELL AS THE INTERNAL REVENUE SERVICE. THIS HAS NOT BEEN AN EASY JOB FOR THE PAST SEVERAL YEARS. IT IS SAD HOW THE CONDUCT OF MOST OF THE IRS EMPLOYEES HAS CHANGED. THEY HAVE GONE FROM BEING PLEASANT, NICE TO TALK WITH, FAIR WITH THE CLIENTS AS WELL AS THE PREPARERS TO BEING DOWN RIGHT "RUDE" TO THOSE OF US THAT ARE TRYING TO DO OUR JOBS THE WAY WE SHOULD. IF YOU ARE NOT A CPA OR AN ENROLLED AGENT, YOU DON'T GET THE SAME TREATMENT FROM THE IRS EMPLOYEES. I AM AN ACCOUNTANT. WHEN I HELP MY CLIENTS WITH ANY MATTERS CONCERNING A PROBLEM WITH THEIR TAXES, I HAVE THEM SIGN FORM 2848 "POWER OF ATTORNEY". HOWEVER, WHEN I SIGN THIS FORM AND PUT THE LETTER "H" OUT BY MY NAME, I HAVE BEEN TALKED TO BY A LOT OF THE EMPLOYEES OF THE IRS AS IF I DON'T HAVE THE SAME RIGHTS AS THE CPA'S OR THE ENROLLED AGENTS. DOES MY CAF NUMBER NOT MEAN NOW WHAT IT MEANT BACK IN 1994 WHEN IT WAS ASSIGNED FOR ME TO USE??? WHEN ONE OF MY CLIENTS ARE AUDITED, I PROVIDE MY OFFICE, A NICE LARGE DESK AND MY TIME AND ATTENTION IN ASSISTING THEM IN EVERY WAY POSSIBLE. THIS IS TIME I DON'T GET PAID FOR. I FEEL THAT THIS TIME THAT I SPEND IS NOT ONLY HELPING MY CLIENT, BUT ALSO HELPING THE INTERNAL REVENUE SERVICE. I TRY MY BEST TO HELP THE AUDITING AGENT IN ANY WAY I CAN.

I HAVE HAD IRS EMPLOYEES TELL ME THEY DID NOT HAVE MY FORM 2848 ON FILE, THEREFORE COULD NOT DISCUSS THE CLIENTS INFORMATION WITH ME. I HAVE, AT TIMES, SENT 2 OR J FORM 2848 INTO THEM ON THE SAME CLIENT AND THEY STILL DON'T HAVE IT ON FILE. THEY ARE SO QUICK TO TELL YOU THIS, IT LETS YOU KNOW RIGHT AWAY THAT THEY JUST DON'T WANT TO BE BOTHERED WITH LOOKING FOR IT. JUST WHAT ARE THEY GETTING PAID TO DO??

BOTTOM LINE... I THINK THAT ANY ONE HIRED BY THE INTERNAL REVENUE SERVICE SHOULD, FIRST OF ALL, BE GIVEN A LESSON ON GOOD BUSINESS MANNERS. AS THE OLD SAYING GOES, "DON'T BITE THE HAND THAT FEEDS YOU." THESE IRS EMPLOYEES HAVE ALSO BEEN VERY RUDE TO SOME OF MY CLIENTS. IF YOU NEED PROOF, I HAVE THE NAMES OF THE CLIENTS.

IF THIS PROBLEM WITH THE INTERNAL REVENUE SERVICE EMPLOYEES COULD BE SOLVED, I THINK IT WOULD HELP WITH BOTH THE TAXPAYER COMPLIANCE AND THE IDGH ETHICAL STANDARDS OF CONDUCT THAT WE SO BADLY NEED RIGHT NOW WHILE OUR COUNTRY IS IN THE MESS THAT IT IS IN.

WE HAVE GOTTEN THE IRS EMPLOYEES FIRST NAME AND BADGE NUMBERS AND SENT IN COMPLAINTS CONCERNING THEIR CONDUCT. I GUESS THESE COMPLAINTS ARE PUT IN THE

SAME PLACE THAT THE FORM 2848 "POWER OF ATTORNEY'S" ARE PUT. THEY CAN'T BE FOUND.

I THANK YOU FOR YOUR TIME READING MY LETTER.
RUTH RICHARDSON,
ACCOUNTANT

From: stevensonsmarket
Sent: Monday, August 24, 2009

Hello....

I'm very interested in the propose changes to Tax Preparers and would like more information ect. if passed would their be an all state exam or in state exam. ..depending on each state oppose to the State Tax side of preparing taxes.

thanking you in advance
Marian L. StevensonfTax PreparerfTennessee

From: Lynne Fowler
Sent: Monday, August 24, 2009
Subject: Tax Preparer Certification

You are wasting the taxpayers' money on these "conferences." You fully intend to require certification no matter what is discussed. You have worked with H & R Block in developing these certification exams (and you have been doing it for several years.)
You are being dishonest in the pretense that this is a new idea and open to discussion.

From: Dwight Hetletved
Sent: Monday, August 24, 2009

To whom it may concern:

I would like to see regulation of tax preparers as there are those preparing returns who are not doing a good job. I think testing and/or registration would be good. I don't feel testing should be necessary for those who are licensed by a state board, etc, (EAs, CPAs, Attorneys) as they have continuing education requirements.

Thanks for allowing our input.
Dwight Hetletved

From: Sid Young Dba
Sent: Monday, August 24, 2009
Subject: Pending proposals on preparer regulation

I am a preparer with 33 years of experience, a masters degree in government, and certification from H &R Block. I limit my practice to the preparation of individual and Schedule C business returns. I feel that those of us who do not do corporate, estates, or trusts should be exempt from testing over those topics.

From: Dorothy
Sent: Monday, August 24, 2009
Subject: comments

Commissioner Schulman,

As a tax preparer, I would like to see a change in the W 4 Forms for all Federal and State forms. The W 4 ask for exemptions (dependants) to claim for payroll purposes. The change I am proposing: If more than 4 exemptions (dependants) list names, addresses and SS numbers. This would verify dependants, increase or decrease payroll taxes, based on this information. Also, it would eliminate non-legal citizens from carrying 8-10 exemptions and not paying any payroll taxes or state taxes.

Dorothy B. Leamon
NC Society of Tax Professionals Board Member

From: Annette Saarinen
Sent: Monday, August 24, 2009
Subject: Oregon Tax Preparer License Model for National program

Good Morning. My name is Annette Saarinen. I have been involved in Tax Preparation since the dark ages. I am a Licensed Tax Consultant in Oregon and an Enrolled Agent. Before Oregon's licensing program, things would get wild and wooly with Tax Preparers. There was no control and no punishment for rogue preparers involved in fraud or incompetence. The public financial safety was at stake. The Tax Board was created as an answer to this problem and our licensing became real rather than just an excuse to gather money for the state. Our education program requires 80 hours of education to become eligible to take the 5 hour board exam and 30 continuing ed hours each year. This protects the public from uneducated tax preparers. After 780 hours of working under the supervision of a Licensed Tax Consultant, CPA, or attorney, the Licensed Tax Preparer can take another 5 hour test and become a Licensed Tax Consultant (LTC). In order to hang a shingle, a preparer must be an LTC. We are proud of our designations and work hard to protect them. This preserves the integrity of the industry. I believe that existing licensees in Oregon should be grandfathered in under a national licensing program. I have heard many horror stories from out-of-staters that just don't exist here in Oregon any more. The national licensing program would ensure the public safety from tax preparing predators. State laws could be more restrictive than federal laws, but the federal laws are important to everyone. The continuity and regulation in the industry is important to the public as well as to the agencies involved.

Thank you for your time and attention.
ANNETTE SAARINEN

From: Carl Beal
Sent: Monday, August 24, 2009
Subject: Notice 2009-60

Tax preparers need to be held responsible for negligently / fraudulently prepared tax returns. They should not be allowed to use "the taxpayer told me" as an excuse for negligently / fraudulently prepared tax returns. Both federal and state laws need to change in such a way that holds tax preparers responsible for their work.

Thank you,
Carl Beal, NC CPA / Revenue Tax Auditor

From: bob richard
Sent: Monday, August 24, 2009
Subject: Instructors

The teachers assigned by the big 3 tax companies to instruct students should also be reviewed. Some of the so called instructors had been and are still a horror. Review the instructors ASAP.

Richard

August 24, 2009

Honorable Douglas Shulman

CCPA:LPD:PR (Notice 2009-60)

Re: Internal Revenue Service Public Forum on Tax Return Preparer Review

Dear Commissioner Shulman:

The Tax Committee of the Oklahoma Society of Certified Public Accountants appreciates the opportunity to provide these comments for the forum to discuss proposals for ensuring that all tax return preparers are both ethical and competent. Because tax return preparers play an important role in the efficient and effective administration of the tax laws, these proposals complement the efforts of the Internal Revenue Service to regulate tax preparers, increase the level of compliance of taxpayers, and reduce the amount of underreporting or non-reporting of taxable income. The Oklahoma Society of Certified Public Accountants is the state professional association of certified public accountants comprised of approximately 6,500 members. Our members advise clients on federal, state, and international tax matters and prepare income and other tax returns for hundred of thousands of taxpayers. They provide services to individuals, not-for-profit organizations, and a large variety of businesses. Our organization clearly supports the associated goals of increasing compliance and maintaining high ethical standards for all tax practitioners. We and our national professional organization, the American Institute of Certified Public Accountants, strongly supports the maintenance of high professional standards for our members as it establishes and enforces such standards through our Code of Professional Conduct and Statements on Standards for Tax Services. Concerns have continued to be voiced by the Internal Revenue Service and Congress in regards to the high error rate associated with the Earned Income Tax Credit claims and consumer protection concerns associated with Refund Anticipated Loans. With regards to both of these matters we believe specific legislation is the best solution to simplify the Earned Income Tax Credit to avoid mistakes by preparers and allow the Internal Revenue Service to more easily monitor and identify inaccurate calculation of the credit. Further, specific legislation could also be developed to better regulate the use of Refund Anticipation Loans, as well as provide better education through the use of public service announcements of the true cost of obtaining these loans. We believe the Internal Revenue Service already has sufficient authority to regulate federal tax return preparers without the need for an additional legislative grant of authority. First, the IRS has the ability to regulate tax preparers through the penalty process under current law. The government also regulates certain practitioners through the IRS's Office of Professional Responsibility. This Office enforces Circular 230 which governs the practice by CPAs, attorneys, and enrolled agents before the IRS. The Office has the authority to identify standards of performance and discipline these Circular 230 practitioners through disbarment and other sanctions. We recommend that the Office's oversight responsibilities be extended to include unlicensed tax return preparers. Further, this office could serve to respond to complaints by taxpayers of inappropriate actions of tax preparers, similar to the role of the Oklahoma Accountancy Board serves the public who utilize the services of a CPA or the state bar for attorneys. CPAs, attorneys, and enrolled agents should be exempt from any new federal regulation regime imposed on currently unlicensed tax preparers. The bills introduced in the last Congress properly recognize that these professional are already subject to regulation and standards imposed upon them by state boards of accountancy, state bars, court systems, and Circular 230. We strongly advise against any result which would impose duplicative regulatory regimes on CPAs, attorneys, and enrolled agents. We again wish to thank the Commission for allowing us to submit these comments.

Sincerely,

C. Edd Painter, CPA, Chair
OSCPA Taxation Committee

From: Thomas E. Hinchliffe
Sent: Monday, August 24, 2009
Subject: Notice 2009-60 - Please respond that you received this email?
Attachments: Public Comment on Tax Preparation Change.doc
Attached is my response to Notice 2009-60.

TOM'S TAX SERVICE
TOM HINCHLIFFE
DUNDEE
August 24, 2009

CCPA:LPD:PR (Notice 2009-60)

Dear IRS,

First of all, thanks for giving me an opportunity to comment on Notice 2009-60. I will address some of the issues that you have highlighted in Notice 2009-60.

1) I am a graduate of the University of Wisconsin with a BBA degree in Accounting. I have been preparing tax returns for over 30 years in a small community in middle Wisconsin. I attend yearly workshops, subscribe to tax publications that provide monthly updates on tax issues, and receive update emails from both the IRS and the State of Wisconsin. I am not a CPA nor Enrolled Agent.

2) A degree in accounting, as well as the usual certifications such as CPA should be required to provide tax preparation. A copy of the diploma can be provided to the IRS to prove the level of education.

3) You are current providing your email alerts which I find very useful. Good education at your level passed down to preparers can only improve the bottom line of tax returns prepared by preparer's. I don't know of any better way to reach so many preparers on a timely basis as you can through the use of email. I feel the preparer should pay for class training and the IRS bear the cost of email alerts.

4) Although you already have your ethical standards, a simple code of ethics that can be posted on a wall is a great way to reinforce to both the preparer and the tax payer that a Code of Ethics will be followed in preparing the return. I worked in management with a Medicare Contractor for years and we had a code of ethics that guided us through our workweek with both customers, the Social Security Administration, and other employees.

5) See # 4 above. - The Code of Ethics must start at the upper levels and trickle down to the employees.

6) Professional Organizations should be responsible for education and training. The conduct of members should not be their responsibility. This responsibility lies with the preparer and the culture within the office of the preparer.

7) There needs to be a grandfathered provision or many current preparers will be out of business leaving their clients with either preparing their own return or going to another preparer that is certified. Such a move will increase errors if they complete their own return or cause massive delays in firms already understaffed during the tax season.

General Comments

Your largest area of possible abuse, intentional or non-intentional, is allowing tax payers to use Turbo tax or other tax preparation software. Although the software does lead them through the process of preparing a tax return, many misclassify repair expense vs improvement, COGS sold, vs fixed costs, etc. Only someone with an accounting background would understand these concepts. Another area of concern is the understatement of income because they under report sales by cash items paid from the till and then later include them as expenses, thus doubling up. I know this because these are the things I have to reclassify from provider records prior to preparing their tax return.

My background

My experience comes from Blue Cross Blue Shield United of Wisconsin where I served as an audit supervisor in the Provider Audit Department from 1975 until July of 2007. In that capacity from 1975 until 1990 I was responsible for the control and management of a team of senior auditors responsible for the determination of audit effort on over 100 hospitals, 20 nursing homes and 75 home health agencies in five states and Puerto Rico. In early 1990 I took responsibility for all auditor training within the department as well as training facility accountants across the country. For all the courses I taught, I wrote the manual and prepared the entire lecture. Over half my courses were approved by the Wisconsin Certified Public

Accountants. In early 2000 we were bought out by WellPoint, Inc and I was re-assigned to supervise the internal operations of the Provider Audit Department in Wisconsin and to work on committees to develop internal policies for the audit offices in over 30 states. I continued in that capacity until my retirement in 2007. In addition to the above, for over 30 years I ran my tax and accounting business out of my home in evenings and weekends. In July of 2007 I retired from Blue Cross and started to advertise my business to pick up additional clients, specializing in individuals and the small businesses such as taverns, restaurants, and owner owned trucks. This specialization has allowed me to direct my attention and research to a targeted client base ensuring as much accuracy as possible. Again, thanks for allowing this opportunity to comment on your proposed changes. If you have any questions, please call anytime Monday through Friday at 920-533-8725

Sincerely yours
Tom Hinchliffe

Sent: Tuesday, August 25, 2009
Subject: tax preparers

TO WHOM IT MAY CONCERN: I HAVE BELIEVED THAT THERE SHOULD BE A TEST FOR NEW PREPARERS FOR MANY YEARS NOW. I HAVE BEEN IN BUSINESS FOR OVER 30 YEARS AND WONDER HOW SOME PEOPLE WHO TAKE ON THE RESPONSIBILITY OF DOING TAX WORK CAN DO SO WITHOUT READING THE FIRST PUBLICATION ON TAXES. ONE OF THE FIRST THINGS I DID WAS TAKE THE HANDS-ON TAX COURSE AND ENDED UP WORKING ONE TAX SEASON FOR THEM. AFTER THAT I TOOK 3 MORE COURSES TO KEEP UP WITH ANY CHANGES. I, ALSO, GO TO THE CLEMSON SEMINARS EVERY YEAR. THIS WILL BE MY 22 YEAR TO ATTEND. I WOULD HAVE LIKED TO ATTEND THE CONFERENCE BUT AM UNABLE AT THIS TIME. I WILL CONTINUE TO PRINT AND READ ALL INFORMATION AVAILABLE. I, ALSO, WOULD LIKE TO SEE MORE ENFORCEMENT ON PEOPLE WHO CHARGE TO PREPARE THE TAXES AND NOT REPORT THEIR INCOME OR SIGN THE RETURNS THAT THEY DO. I LIVE IN A RURAL AREA AND THIS IS ONE OF THE PROBLEMS WE FACE EVERY YEAR. THIS GOES TO THE EARNED INCOME CREDIT FRAUD SITUATION. WE HAVE PEOPLE COME IN TO FILE ELECTRONICALLY THAT ARE MARRIED BUT WISH TO FILE HEAD OF HOUSEHOLD NOT WISHING TO CLAIM THEIR CORRECT STATUS OF MARRIED WITH TWO WAGE EARNERS, EACH WANTING TO CLAIM CHILDREN TO RECEIVE LARGE REFUNDS. AFTER QUESTIONING AND INFORMING THEM THAT THIS IS A CRIME AND WE WILL NOT DO IT THEY HAVE TOLD US THE PERSON WHO FILLED OUT THEIR FORMS SAID I WAS WRONG. I SEND THESE PEOPLE OUT OF MY OFFICE WITH PRINT OUTS OF THE LAW. THERE ARE A NUMBER OF OTHER THINGS THAT I WOULD LIKE TO TALK ABOUT IN ABUSES THAT TAKE PLACE EVERY YEAR.

I WILL ALSO SAY THAT THE MANY IRS PERSONNEL THAT I HAVE HAD CONTACT WITH OVER THESE MANY YEARS HAVE BEEN VERY HELPFUL. I HAVE HAD PEOPLE COME IN THAT HAVE NOT FILED FOR 3 AND 4 YEARS THAT WORKING WITH SOMEONE IN THE IRS HAVE HELPED GET THEM BACK INTO THE SYSTEM AND BROUGHT THEM IN TO COMPLIANCE.

THANK YOU FOR THE OPPORTUNITY TO MAKE THE ABOVE COMMENTS.
ELIZABETH HANAHAN

From: Terri Malast
Sent: Tuesday, August 25, 2009
Subject: notice 2009-60

As an un-enrolled preparer I agree modifications to the system need to be changed. However, I feel that some vital questions needs to be answered. What will the designation be & what privileges will be granted? After licensing will the IRS work with the preparer who is licensed? Such as questions or audits of returns that we have prepared. In the past we have checked the Third Party box on the 1040 series only to be ignored.

Will there be a phase in period?

Unscrupulous prepares will always exist, most can get around the system by pulling their practices down & prepare the returns for clients through on-line software which limits the returns to 5, what will stop them from using another computer to prepare 5 more? How can you enforce licensing of all tax prepares in chain stores, CPA offices etc?

Terri Malast CRTP
Figures Tax

From: Michael Chan
Sent: Tuesday, August 25, 2009
Subject: Re: Notice 2009-60 Input

Hello!

Regarding the standards of all tax preparers.....

All tax preparers, regardless of their designation such as CPA, EA, Attorney, "should" (already) hold themselves to a "higher" standard than most other professionals since they have to follow the laws, tax code and/or court rulings of the USA. Non-enrolled preparers should be required, by law, to take the Enrolled Agent exam to show their competency when preparing returns for the government, whether for the federal and/or various states

tax agencies. Also, certification should be given to those that "prove" their competency. Accountants become CPA's when they pass the CPA exam and people become attorneys when they pass their state's Bar exam. Why can't Enrolled Agents get certified like other professionals?? The CPA exam is difficult as is. A person may be a public accountant specializing in taxes for many years but haven't passed the CPA exam, which is NOT unusual or unheard of. That person may then pass the EA exam and earned a Master's Degree in Taxation but still haven't passed the CPA exam!

That does not mean those people should be "looked down upon" because they are not CPA's despite their advanced educational degree and work experience! There are many people who are competent in the profession but just do not "test" well. That goes the same for those taking the CPA exam (or any other exams). Those that do not pass the CPA exam does

NOT mean they are not competent but merely means that they don't take or pass exams well but may be competent in their profession. It's understandable since EA's are not certified since there are no "exams" to pass. But doesn't passing the Enrolled Agent exam, sponsored by the Internal Revenue Service, which is part of the US Treasury Dept, would qualify as such an exam? Doesn't this merit certification??

Starting in the early 1990's, the AICPA required that all CPA exam takers to have an accounting degree before they qualify to take the CPA exam which really enforces that fact that those who are CPA's are only accountants. Previously, anyone could become a CPA by merely taking and passing the CPA exam! This "diluted" the accounting profession, hence, the requirement change to enforce that only accountants become CPA's!

Just imagine, would a person hire a CPA preparing their return when that CPA just passed the CPA exam but was a baker previously with no tax experience??

It would be difficult judging which person to "certify" even if one passes the EA exam since there truly is **NO** educational background requirement to become an EA but merely pass the EA exam! People should, at least, have some educational requirements such as an accounting degree, Associate or Bachelor, to prove their educational background (since taxation is actually a specialized field within accounting).

Otherwise, the EA profession is "diluted" and the EAs' work experience is questionable since you do not know if they are truly knowledgeable or experienced in taxation! Imagine again, would a person hire an EA preparing their return when that EA just passed the EA exam but was a baker previously with no tax experience??

Those that have proven themselves by passing the EA exam, worked in the tax profession for many years **and/or** earned an advanced educational degree "should" be allowed to be "certified", probably by the US Treasury Dept or the Internal Revenue Service.

Quote from adulthood.about.com:

<http://adulthood.about.com/od/professionalcertifications/a/certification.htm>

"Professional certification is a process in which a person proves that he or she has the **knowledge, experience, and skills to perform a specific job**. The proof **comes in the form of a certificate earned by passing an exam that is accredited by an organization or association** that monitors and upholds prescribed standards for the particular industry involved."

Using that quote and applying to EA's....

1. People become EAs by passing IRS's EA exam - OK!
2. Accredited by an organization that monitor standards for particular industry - IRS/US Treasury/OPR OK!

So.... why can't EA's get "certification"??

Lastly, the ethical standards are provided by Circular 230 for ALL tax preparers. The AICPA also has their own Ethics and Code of Conduct for CPA's as well as state accounting societies who "should" monitor

and police their members. Attorneys who have their own ethical codes and conduct code by their state Bar associations. Many of these professions have adopted many principles of Circular 230 into their Ethics and Code of Conduct!

Whether those members or practitioners of said professions follow those ethical guidelines or rules of conduct is another matter!

Sadly, many practitioners do NOT follow ethical and/or moral standards!

Those that do not face license revocation as well as possible fines and other legal actions including jail time. It's very difficult to "do the right thing" when money is involved or when a client want the preparer to assist them to "make their taxes look good on a return and will pay the preparer to do so". Enforcement is always a difficult issue since it's not precise on how to properly enforce those rules except to leave it up to each practitioner's conscience.

Regulation of Non-enrolled tax preparers will always be an issue which is a major area for enforcement.

Anyone can prepare a return but how many people actually know what they are doing(hence, their competency)? The only possible solution is some sort of certification by passing an exam that tests their competency, which is in place, the Enrolled Agents exam. The EA exam isn't the best exam given that the questions are ridiculously vague and misleading and tends to repeat questions, literally, but it's a start and it does at least test the minimum knowledge on taxation. The EA would then have to get working experience to further enhance that knowledge.

Thank you for your time!

Michael Chan

Public Accountant

EA, MST

From: Rhonda L. Gregory
Sent: Tuesday, August 25, 2009
Subject: Notice 2009-60

Comments regarding preparers

As a CPA, we are part of a highly regulated group of tax preparers. I believe all that are allowed to practice before the IRS and prepare returns should be required to pass competency standards to prove they can read, understand and apply the tax code properly. As the (PAs, attorneys and enrolled agents are already subject to IRS oversight, no additional requirements are needed for this group. However, all preparers should be brought into this category and subject to the same oversight.

*Rhonda L Gregory CPA
Gregory & Associates. CPAs. P. C.*

From: Hunt Tax
Sent: Tuesday, August 25, 2009
Subject: Notice 2009-60

I am certain there are many paid tax preparers who are qualified and operate under a code of ethics consistent with IRS standards. However, there are probably just as many who do not. To say that tax laws are confusing would be an understatement and with the variety of tax software programs available to any taxpayer to prepare his/her own return, it is no wonder that the tax code is misinterpreted or even ignored in some cases. Not only is it complicated but there are changes every year. Would regulation or licensing of tax preparers solve this problem? Maybe. It may drive more paid tax preparers "underground" where they would prepare someone's tax return but not sign it as the preparer. It may also eliminate many qualified and legitimate tax preparers who, for whatever reason, are not willing to take a test to become licensed. It could increase the number of taxpayers who prepare their own returns either by hand or with purchased software and still misinterpret the tax code. And it could end up increasing tax preparation fees for taxpayers who use licensed preparers still left in the business because they would now be subject to testing and/or continuing education. Costs for that would be passed along to the taxpayer in the form of higher fees. There is no question that something needs to be done to increase taxpayer compliance but I'm not sure that regulation of the industry is the answer.

So what about testing? The Special Enrollment Exam has three parts: Individuals, Corporations, and Ethics. This test is expensive and requires a considerable amount of study time prior to testing. In addition, tax preparers who work for others would either have to pay for the test themselves or hope to be reimbursed by their employer, again adding to that employer's overhead expenses. Many paid tax preparers only prepare individual returns or corporate returns and not both so it would seem unnecessary to require them to pass all three parts of the test. There would have to be a new testing process or perhaps only two of the three tests would be required. And what about allowing tax guide books or notes during the testing process? I am going to wager that most legitimate tax preparers (and most licensed professionals) use tax software plus a tax guide book of some kind. Rather than requiring a tax preparer to memorize an enormous amount of information, perhaps they can use their guide book to help them through the test. This may eliminate much of the fear that long-time tax preparers have about the testing process. I do not believe that being knowledgeable of the tax code means a person has to have it all memorized; the ability to research, use the tools available, and interpret the law is much more important. My recommendation is that tax preparers register with the IRS by submitting a resume of qualifications and experience. A test of basic information could be administered tailored to the type of tax returns the preparer processes (individual or corporate) as well as a section on ethics. The preparer would be allowed to use one resource (guide book or notes) during testing. But all of this is going to cost money and require additional IRS staff to implement.

Linda Smock
Beverly R. Hunt Tax & Accounting Service

From: Ray Moore
Sent: Tuesday, August 25, 2009
Subject: Notice 2009-60

We are responding to your request for comments on 1) how the tax return preparer community can assist in increasing taxpayer compliance and 2) how to ensure that tax return preparers meet both uniform and high ethical standards of conduct. Currently tax return preparers range from CPAs, who must already meet high ethical standard and continuing professional education (CPE) requirements just to maintain their licenses, and Enrolled Agents, who have similar professional requirements, to totally unregulated persons who simply "hang out a shingle" stating they are tax return preparers. The primary issue with regard to return preparers stems not from the quality or professionalism of those with these recognized professional certifications, but with those who are not regulated because the preparation of a tax return is not considered "practice before the IRS" as that term is used in Circular 230. The solution to this problem is not the issuance of a lot of new rules, regulations and controls, but subjecting the "uncontrolled" group to standards similar to those to which the professional groups are currently held. We believe that this is a relatively simple process involving the following:

- Modify the definition of practice before the IRS to include the preparation of tax returns;
- Impose minimum standard CPE requirements on all tax return preparers who are not currently subject to such standards;
- Require that all tax return preparers must provide a PTIN on returns they prepare; and
- Provide a new certification as a Return Preparer for those not subject to the higher certification standards of CPAs and Enrolled Agents

Assisting in increasing taxpayer compliance
Imposing standards on the currently non-regulated preparers should enhance the quality of tax return preparation services. Although simply imposing standards will not prevent a person from preparing or assisting in preparing a fraudulent return, it will diminish the number of returns prepared erroneously because of ignorance on the part of the person preparing the return. Additionally, making the preparer more aware of his or her responsibility with regard to determining the accuracy of the information provided by the taxpayer, and making them aware of the potential for penalties if they fail to adhere to proper standards of care in preparation of a return, should result in a more professional product with more accurate calculations of the tax due. As CPAs, we are already subject to many standards of conduct (AICPA standards, Circular 230, the requirements of the tax code and associated regulations) that remind us of our responsibilities in assisting taxpayers in filing complete and correct returns. The vast majority of CPAs take this responsibility seriously. For example, in situations where I have represented a client who was being audited (the client had prepared his own return and came to us for assistance during the audit process), the auditor asked, "How would you have prepared this return?" When I presented to the auditor the return as we would have prepared it, he accepted it and finalized the audit. This is not an unusual result. In the vast majority of situations where a taxpayer's return is prepared by a CPA, there are minimal changes resulting from the audit of that return. Subjecting currently unregulated preparers to standards similar to those to which CPAs and Enrolled Agents are held would go a long way toward increasing the level of taxpayer compliance. Ensuring that return preparers meet high and uniform ethical standards As stated above, simply subjecting a person to a standard does not automatically mean that the person will adhere to that standard. Putting new standards into place is not going to stop a person from preparing a fraudulent return if they really want to do so. However, on the assumption that most of the problems encountered with returns prepared by currently unregulated preparers result from their ignorance of specific requirements, as opposed to a direct intent to evade the tax law, putting a system in place that requires that they become aware of basic tax law and especially of preparer responsibilities should significantly decrease this problem. CPAs and Enrolled Agents are already subject to standards of conduct that they must meet in order to retain their certifications. What is needed is a new standard with CPE requirements for those who are not currently regulated; for example, a "Return Preparer" certification - a certification that would only allow the preparation of tax returns, not further representation before the IRS. Once they have passed the Return Preparer exam, certified Return Preparers would be allowed to prepare tax returns. These preparers should also be made subject to Circular 230 by including them in the list of persons covered by Circular 230 and by redefining practice before the IRS to include the preparation of tax returns. The exam could test the preparer's knowledge of basic tax items such as includible income and deductible expenses, but it should primarily focus on the preparer's

responsibility with regard to the preparation of the return. A new CPE standard would also need to be developed in order for preparers to maintain this new certification. Currently CPAs have the highest experience and education requirements for maintaining their certifications, with Enrolled Agents having similar but slightly lower requirements. CPAs and Enrolled Agents would continue to be subject to their respective higher standards. It is not necessary that CPE requirements for maintaining a Return Preparer certification be as high as those of CPAs or Enrolled Agents in order to achieve the goal of better regulating the preparer industry and increasing the quality of tax returns prepared. The new certification should have CPE requirements that relate to the preparation of tax returns, centering on the preparer's responsibility with regard to the preparation of a return. Increasing the IRS' ability to track preparers through the mandatory use of PTINs by all preparers would assist in monitoring the preparer industry. Such monitoring, coupled with a new Return Preparer certification for currently unregulated preparers, would help the IRS ensure that all preparers are meeting the highest standards of ethics and quality in the preparation of income tax returns. Summary No program can guarantee that all returns will be correctly prepared. However, requiring the use of PTINs by all preparers, providing the IRS with more authority over currently unregulated preparers, and requiring that a preparer have at least a *Return Preparer* certification would almost certainly improve the overall quality of return preparation.

Ray Moore, Director of Tax
O' Sullivan Creel, LLP

From: Robertson, Mary (HSGAC)
Sent: Tuesday, August 25, 2009
Subject: Comments on Standards of Conduct for the Tax Return Preparer Community (Notice 2009-60)
Attachments: Levin comment ltr re IRS Notice 2009-60 on tax return preparers (Aug 25 09).pdf
Attached please find Comments on Standards of Conduct for the Tax Return Preparer Community CCPA:LPD:PR (Notice 2009-60) from Senator Carl Levin.

August 25, 2009

Sent by electronic mail to Notice.Comments@irs.counsel.treas.gov

The Honorable Douglas Shulman

Internal Revenue Service

RE: **Request for Comments on Standards of Conduct
for the Tax Return Preparer Community
CCPA:LPD:PR (Notice 2009-60)**

Dear Commissioner Shulman:

The purpose of this letter is to express support for the plans of the Internal Revenue Service (IRS) to propose a set of comprehensive recommendations by the end of 2009, on how the tax return preparer community can assist in increasing taxpayer compliance and ensure that tax return preparers meet uniform and high ethical standards of conduct. This letter respectfully recommends that the IRS propose a comprehensive registration and licensing regime with enforceable standards of conduct for all federal tax return preparers.

86 Million Tax Returns at Stake. Tax return preparers are critical to ensuring tax compliance by individual taxpayers, the majority of whom use paid preparers to file their federal tax returns. IRS data released in 2009 for the 2007 tax year, for example, indicates that over 154 million individual income tax returns were filed and, of those, 86 million, or about 55%, were filed with a paid tax return preparer's signature.¹ IRS data also indicates that, of the 86 million tax returns signed by a paid tax return preparer, 56 million, or about 65%, were filed by a taxpayer with an adjusted gross income of less than \$50,000, while 3.5 million returns, or about 4%, were filed by a taxpayer with an adjusted gross income equal to or greater than \$200,000. These huge numbers provide ample justification for the recommendation of the National Taxpayer Advocate, first made in 2002, that the IRS establish a national registration and certification program for tax return preparers not otherwise subject to IRS oversight.²

Subcommittee Investigations. The U.S. Senate Permanent Subcommittee on Investigations, which I chair, has conducted a wide range of investigations over the last nine years examining the advice provided by tax professionals to clients filing federal tax returns, including advice related to the use of abusive tax shelters, offshore tax havens, and services related to tax refunds. In 2001, for example, the Subcommittee held a hearing and released a report showing how tax professionals had designed and helped Enron Corporation utilize several abusive tax shelters. From 2003 to 2005, the Subcommittee held hearings and released two reports showing how tax professionals helped design, market, and implement abusive tax shelters for a variety of U.S. corporations and individuals, including advising some clients on how to treat the shelters in their tax returns. In 2006, the Subcommittee held a hearing and released a report illustrating how tax professionals helped U.S. taxpayers use offshore tax havens to hide assets and dodge U.S. taxes. The Subcommittee has estimated that offshore tax abuses alone have caused an estimated loss of \$100 billion in U.S. tax revenues each year. In 2005, the Subcommittee specifically examined U.S. tax return preparation firms involved in the marketing of refund anticipation loans, refund anticipation checks, audit insurance, and similar products to their clients, in particular taxpayers filing returns to qualify for the Earned Income Tax Credit (EITC). The Subcommittee investigation found that many of these products were sold to unsophisticated clients who were ill equipped to evaluate them or understand the written disclosures provided. The evidence indicated, for example, that some tax return preparers charged substantial fees to arrange for a tax refund anticipation loan to a client, sometimes charging up to 10% of the expected refund amount, and then providing the funds only

¹ IRS Statistics of Income Spring 2009, Volvne 28, Nwnber 4, p. 132.

² National Taxpayer Advocate 2008 Annual Report to Congress, p. 424 (Dec. 31, 2008).

a few days before a refund would have been provided to the client by the IRS at no cost. The investigation determined that tax return preparers selling these profitable financial products to their clients not only confronted conflicts of interest, but operated under few if any fiduciary constraints that would have required them to put their client's financial interests before their own. The sale of these financial products generated significant revenues for the tax preparation firms, including about \$200 million in 2004 revenues for H&R Block and Jackson Hewitt alone. Each of the Subcommittee investigations provides specific evidence of the important role that the tax return preparer community plays in the taxpayer compliance process, for both low income and high income taxpayers. The investigations provide concrete evidence of how tax professionals can encourage or undermine tax compliance, and illustrate the need for standards of conduct that compel tax return preparers to promote tax compliance and resolve financial conflicts of interest in favor of their clients. In too many cases today, ethical tax preparers are competing against colleagues who provide questionable advice and sell unnecessary and expensive financial services to their clients without any constraining professional standards of conduct.

Evidence of Tax Return Preparer Problems. Over the past five years, reports and court cases have raised serious concerns about the high error rate, poor quality, and sometimes deliberate misinformation in the federal tax returns being prepared by some tax return preparers. In 2006, for example, the United States Government Accountability Office (GAO) undertook a study in which it submitted federal income tax scenarios to commercial chain tax return preparers and requested that federal tax returns be prepared based upon that information. GAO then analyzed the 19 tax returns it received and identified a host of problems with them, including unreported business income in 10 of the 19 cases; a failure to itemize deductions or claim all available deductions in 7 out of 9 applicable cases; a failure to inquire about a child's place of residence or incorporate information on the child's residence resulting in ineligible EITC claims in 5 out of 10 applicable cases; and failing in 3 out of 9 applicable cases to claim the most advantageous postsecondary education tax benefit. GAO found that, in the end, only 2 of the 19 tax returns reflected a correct refund amount, and even those had contained errors that did not affect the final refund amount. GAO found that the 17 incorrect tax returns would have resulted in taxpayers receiving refunds that were as much as \$2,000 more or \$1,700 less than what the taxpayers were eligible to receive.³ A similar study was conducted by the Treasury Inspector General for Tax Administration (TIGTA) in February and March 2008. TIGTA auditors presented income tax scenarios to 12 commercial chain and 16 small independently owned tax return preparation offices in large metropolitan areas and obtained 28 completed income tax returns. TIGTA found that out of the 28 tax returns, 17 -- more than half -- were prepared incorrectly. TIGTA determined that 11 of the 17 tax returns contained mistakes that were due to human error or misinterpretation of tax laws, while the remaining 6 tax returns contained misstatements or omissions that TIGTA considered to be willful or reckless.⁴ While the GAO and TIGTA studies each examined only a small number of tax returns, the high error rates in both studies provide clear evidence that the paid tax return preparer system needs strengthening. In addition to these studies documenting the extent to which presumably unintentional errors are made by tax return preparers, the public record is replete with examples of preparers who have deliberately misstated information in client tax returns. In 2008, for example, an H&R Block tax preparer and branch manager pleaded guilty to six counts of filing false claims against the United States, after preparing and filing at least 125 false federal and 115 false State of Minnesota income tax returns. Also in 2008, a New Jersey tax preparer was sentenced to 72 months in prison for filing fraudulent tax returns resulting in lost federal tax revenues of more than \$2.5 million. In another case, a North Carolina tax return preparer was sentenced to 70 months in prison and ordered to pay \$6 million in restitution for conspiring to defraud the United States by filing tax returns claiming nearly \$6 million in false refund claims for individuals. In a 2009 case, the manager of a Jackson-Hewitt franchise in Houston, Texas was sentenced to 30 months in federal prison for aiding, abetting, and assisting in the preparation of false tax returns, including falsification of Schedules A listing itemized deductions and Schedules C listing profits or losses from a

³ GAO, *Paid Tax Return Preparers In a Limited Study, Chain Preparers Made Serious Errors*, Report No. GAQ-06563T, at 5, 14 (April 4, 2006).

⁴ Treasury Inspector General for Tax Administration, *Most Tax Returns Prepared by a Limited Sample of Unenrolled Preparers Contained Significant Errors*, Report No. 2008-40-171, at 2,5 (Sept. 3, 2008).

business. These are just a handful of the recent criminal cases documenting misconduct by some tax return preparers. Tax return preparers whose work is grounded on the correct application of the tax law provide a great service to the public by increasing tax compliance. In contrast, tax return preparers whose actions reflect incompetence, negligence, or misconduct can have a disastrous effect on the integrity of the tax system, including by denying taxpayers tax benefits for which they are qualified, filing inaccurate returns that result in unpaid taxes and a larger tax burden for other taxpayers, and undermining fair revenue collection and public trust in the tax system.

Existing Constraints. Currently, the IRS has established standards of conduct for tax professionals who represent clients in IRS proceedings. Treasury Department Circular No. 230 provides standards of conduct for Tax Attorneys, Certified Public Accountants, Enrolled Agents, Enrolled Actuaries, Enrolled Retirement Plan Agents, and Appraisers. These standards provide important guidance to, as well as professional constraints on, the covered tax practitioners. In addition, Circular 230 authorizes the IRS Office of Professional Responsibility (OPR) to impose sanctions on any covered tax practitioner who violates the mandatory standards. This system, which has been in place for a number of years, has helped improve the conduct of the covered tax professionals and remove unqualified or disreputable individuals. The problem is, however, that many paid tax return preparers do not fall into any of the enumerated professional categories and never appear before the IRS on behalf of a client. Such tax return preparers are currently not bound by Circular 230. In addition to Circular 230, the Internal Revenue Code (IRC) currently authorizes the IRS to impose penalties on tax return preparers who fail to comply with certain IRC provisions or regulations, or who are found to have aided or abetted tax evasion or the underpayment of tax liabilities by their clients. Some of these preparer penalties, however, such as the small fines authorized by IRC Section 6701, appear to be rarely used by the IRS. Moreover, taxpayers who utilize a paid tax return preparer and are assessed additional tax, interest, or penalties for filing an incorrect return may lack the resources to obtain reimbursement from the tax return preparer, even for deliberate or obvious errors.

Licensing Regime for Tax Preparers. To reduce tax preparer errors, bar tax preparers who have engaged in misconduct, and strengthen oversight of paid tax return preparation services, the IRS should establish a national registration and licensing system for all paid federal tax return preparers. This system could be administered by OPR and established under a new IRS rule or an extension of Circular 230. It could be modeled after the licensing systems already in place in California and Oregon, and phased in over a multi-year period to ensure an orderly process. This registration and licensing system should apply to individuals and businesses that offer to prepare any type of federal tax return for compensation, possibly excepting those whose gross revenues from tax preparation services remain below a specified amount. The rule could prohibit any covered person from receiving compensation for preparing or filing, or advising on the preparing or filing, of a federal tax return on behalf of a taxpayer, unless that person has a tax return preparer license in good standing from the IRS. To ensure accountability, tax return preparers who sign federal tax returns for clients could be required to provide the individual preparer's name and identifying licensing number on each tax return signed. To minimize paperwork and licensing reviews, OPR could treat all state-licensed attorneys, certified public accountants, and tax return preparers, as well as all persons in good standing under Circular 230, as automatically qualified to obtain a federal tax return preparer license, absent any prior or pending adverse regulatory or law enforcement action. For all other applicants, OPR could administer a tax return preparation competency test whose successful completion would be required to obtain initial licensure. OPR could also condition renewal of the license on a set of minimum annual continuing education requirements. In addition, the IRS should develop an initial and annual licensing fee schedule to defray the costs of establishing, administering, and enforcing this system. The rule establishing this licensing system should set forth the criteria needed to qualify for an initial license and periodic renewals. It should also set out standards of conduct that covered tax return preparers must comply with to maintain their license in good standing. These standards of conduct should address a broad range of ethical, fiduciary, and professional obligations, similar to those in Circular 230. They could include best practices as well as mandatory requirements. For example, the standards could require tax return preparers to adhere to best practices and exercise due diligence in preparing returns that are accurate, complete, and devoid of obvious errors, and prohibit signing a return which the preparer knows or has reason to know contains false or misleading information. The standards could require preparers to take reasonable steps and exercise due diligence to offer accurate, informed tax advice; require preparers to promote tax compliance; and prohibit preparers from offering tax advice that they know or have reason to know is frivolous or false. In addition, the standards could require the preparer to alert the client to areas in a return requiring additional information and to obtain clarifying information

when needed to prepare an accurate return. The standards could allow tax return preparers to rely in good faith on information provided by a client, while prohibiting willful blindness to questionable information provided during the course of tax preparation services. The standards could also require the tax return preparer to inform the client in writing of the extent to which any position taken in connection with a tax return raises a risk of noncompliance with the tax code, and inform the client of possible penalties. In addition to promoting tax compliance and accurate tax returns, the standards of conduct should require preparers to address conflict of interest issues. The standards should, for example, impose a fiduciary duty on tax return preparers to place their client's financial interests ahead of their own, including by not recommending unnecessary, unsuitable, or unduly expensive products or services. The standards could also require the preparer to perform a conflict of interest analysis with each client, inform the client of any potential conflicts, and deal with them appropriately when identified. In addition, the standards should prohibit preparers from assessing fees that are contingent upon the achievement of specified tax savings. In addition to setting standards, the rule should authorize OPR to impose civil sanctions on those who violate the licensing criteria, procedures, or mandatory standards of conduct. The sanctions could be modeled after those available under Circular 230, and should provide a range of penalties suitable for minor infractions as well as serious violations. Failure to renew a license on time for example, could result in a modest automatic monetary fine, with larger automatic fines for repeated failures to renew. Serious violations of the licensing requirements or standards of conduct could result in larger monetary fines, censure, disqualification, suspension or revocation of the license, or suspension or disbarment from the preparation of federal tax returns for compensation. These civil sanctions should be in addition to any other available civil or criminal penalties under the tax code or other federal, state, or local statutes or regulations. Moreover, they should be imposed only after due process, modeled after the procedures under Circular 230.

Definition of Tax Return Preparer. One of the key issues in this effort would be to define which tax professionals would have to obtain a federal tax return preparer license. Questions include whether to exempt tax return preparers with gross revenues below a specified amount, and how to treat charitable organizations, such as the Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs, that provide tax return preparation services to low income or disadvantaged groups at no or minimal cost. Volunteer organizations already have a competency regime, and any proposed licensing system should be carefully designed to take into account these existing rules and to ensure that low cost or charitable tax preparation services can continue to be made available to low income taxpayers. Another important issue is how to treat tax professionals who provide advice to a client on how to handle a specific tax matter on a specific return, but do not sign the return filed by the client. Allowing such tax professionals to avoid obtaining a license might create a loophole that would enable them to evade national standards of conduct and IRS oversight, while continuing to offer tax return preparation services outside of the licensing system.

Thank you for this opportunity to comment on this important matter.

Sincerely,
Carl Levin
Chairman
Permanent Subcommittee on Investigations

From: TyroneCPA
Sent: TU~Sday, August 25,2009
Subject: Notice 2009-60

Dear IRS,

This is a specific comment and recommendation regarding the tax preparer community -
Comment

In my tax preparation firm I have found the most effective training tool is to have the tax preparer sign the return. They know that by signing that return they will be going to the examination with the taxpayer and defending their action because we make that known throughout the training process which never ends. I was fixing and changing returns for errors and by making the tax preparer who messed up fix the return and sign the return it allowed me to be a better supervisor as well. Because there is no standard for signature I am struggling to get my employees to pass the CPA exam or take the enrolled agent exam. I feel the single most important change made by Enron scandal was to make the CEO sign their financial statement. I have personally witnessed CEO's agonizing over that signature since they now have to sign financial statements.

Recommendation

The person signing the return as a paid preparer should be allowed to practice before the IRS under the current rules thus a CPA, enrolled agent ect as listed on the Power of Attorney form and instructions as allowed tax preparers. You already have the system and rules in place just make those people have to be the signer and the responsible party for penalties and loss of profession. Raise the penalties on the signer personally(list violators on your website?) and the organization that employees them as noted by the EIN on the paid preparer line. This would encourage more professional tax return preparation because of a higher standard to be a paid preparer. Allow a box to be checked that you are an unpaid preparer with instruction included that allow anyone to volunteer to be an unpaid preparer but still subject to personal penalty or organizational penalty so you have a lower level of service that can provided but only by a volunteer that receives no direct or indirect benefit from preparing the tax return.

This change to me is the most important so that the signing of a tax return has some real teeth and meaning to it and to raise the bar while retaining the volunteer network of tax preparers.

Randy Tarpey CPA
Harry K Sickler Associates

From: Mcwillie Crenshaw
Sent: Tuesday, August 25, 2009
Subject: "NOTICE 2009-60"

To Whom It May Concern:

I would like to state that a qualified "Tax Preparer" should have specilized experience supplemented with a minium of 24 hrs. in accounting just as the IRS Revenue Agents.

Thanks.

M. Mackie Crenshaw
Crenshaw's Tax Services

From: Beverly Hunt
Sent: Tuesday, August 25, 2009
Subject: Comments from an EA perspective
Comments-Notice 2009-60

Standards of Conduct for the Tax Return Preparer Community and Increased Taxpayer Compliance

As an enrolled agent and owner of a tax preparation and accounting service who employs "tax preparers", I believe testing of these individuals will make it very difficult to hire qualified employees, as the field of those seeking such positions will be extremely small. These individuals work under the supervision of professionals who are already licensed. Testing by the IRS should not be necessary. No one, with limited exception, should be allowed to be self-employed as a tax preparer without first submitting to a strenuous test covering tax law and ethics. If the intent is to provide only 1040 service, perhaps the test could be limited to individual income tax and ethics. This could be an open book test. Tax law is very complex and is subject to change often. It is not possible to retain all this information in memory. The only exception to testing would be to grandfather those tax preparers who have been self employed for five or more years, belong to regulating organizations, and have provided exemplary service. Anyone who is willing to take an IRS test will have had sufficient education. One must be willing to read, research, and process information in order to become a success. Training is often learned as an employee. Someone without training is not likely to become self-employed, if a testing program is required. All tax return preparers should abide by the code of ethics as defined in Circular 230. In addition, there should be ethics placed on advertising to prohibit advertisers from promising refunds or lowering taxes. This leads to high expectations and I'm sure compromises in tax law as the preparer tries to meet the client's expectations. For many years the IRS has encouraged taxpayers to file their own returns. While this may work well in some situations, it does not work well for all. Tax law is complex, and answering questions to a simplified tax program promoted in department stores for \$35 to \$65 does not suffice. The taxpayer has always been responsible for the completeness and correctness of their return. The climate is changing. Tax preparers are becoming the government's watch dog. They must conduct due diligence and are liable if they do not. This is driving fee for service up and as a result more and more people are depending on the do-it-yourself programs. Except in very limited cases, this practice should not be encouraged. Doing so will limit the number of audits required and will save the taxpayer from unwanted correspondence from the IRS and representation costs.

Beverly R. Hunt
Enrolled Agent
Hunt Tax & Accounting Service

From: Martha Nest
Sent: Tuesday, August 25, 2009
Subject: Notice 2009-60

Good day Ladies and Gentlemen:

As an active member of the National Association of Tax Professionals and a tax preparer and small business advisor for over 25 years, I would like to address the question of Preparer Registration. Please note that these comments are mine alone and I am not speaking as a representative of NATP although I do agree with the comments that Larry Gray presented on behalf of the organization at the July 30th public forum. In further discussion, I feel it is imperative that registration begin first - not testing for those preparers who are members of professional associations and already participate in continuing education on a regular basis. Unenrolled tax preparers are some of the most knowledgeable preparers in their area of expertise. For the most part, they do not try to prepare returns where they have no experience. To lose this arm of the tax preparer community due to too stringent a regulation in the beginning would cripple the objectives that IRS is trying to reach. I believe that after registration, preparers should have a cross section of their returns reviewed for a period of five years and if there are no significant issues, then they would be granted permanent status subject to continuing education and the other requirements that EA's have to adhere to in order to keep their designation. I can see the need for preparers to be required to qualify what returns they are planning to prepare, but should not be denied the right to prepare a return not on "their list". New preparers entering the profession would be subject to minimal testing and the same "five year" scrutiny before being granted "permanent status". Another item that needs to be addressed in the registration process is preparers who offer Rapid Refund Loans, etc. They should be subject to more stringent regulations [or better yet, the process should be abolished]. In my area, I find that the preparers who offer these types of services are the most lax in the preparation of the return. In closing, I would like to thank you for considering my position and I hope that as these discussions continue we can all come to a mutually agreed upon position regarding Preparer Registration that will enhance our profession and not cripple it.

Martha A Nest, EA
Nest & Associates PC

August 25, 2009

Re: Standards of Conduct for the Tax Return Preparer Community and Increased Taxpayer Compliance Notice 2009-60

Dear Commissioner Shulman:

This letter is in response to Internal Revenue Service Notice 2009-60. Notice 2009-60 invited public comments regarding the Internal Revenue Service review of issues concerning tax return preparers. The Service has requested comments on (1) how the tax return preparer community can assist in increasing taxpayer compliance and (2) how to ensure that tax return preparers meet both uniform and high ethical standards of conduct. Accordingly, the Federal Taxation Committee of the Massachusetts Society of Certified Public Accountants, Inc. (MSCPA) provides the following comments to the questions posed by Notice 2009-60.

1. What types of individuals, entities, and professionals currently work as tax return preparers? How are their tax return preparation services currently monitored or regulated by professional organizations or the government? How could this monitoring and regulation be improved?

Many types of individuals, entities and professionals work as tax return preparers. This would include attorneys, Certified Public Accountants (CPAs), enrolled agents/actuaries, banks, trust departments, insurance agents, investment firms and others that do not hold any particular professional designation. CPAs in particular, practice in a variety of organizational forms which include sole proprietorships, local or regional firms and large national and international firms. CPAs must complete an academic course of study, pass an examination and satisfy continuing professional education requirements (CPE), including a professional ethics requirement in many states. CPAs practice under the AICPA Code of Professional Conduct, the AICPA Statements on Standards for Tax Preparation Services, (SSTS) and Circular 230, regarding federal tax matters. In addition, states Board of Accountancy prescribe their own requirements.

2. How do differences in regulation and oversight affect how the various groups of tax return preparers interact with the Service and taxpayers?

Attorneys, CPAs and enrolled agents/actuaries are regulated under Circular 230. Through this oversight, these individuals are subject to regulation and oversight when they interact with the IRS. It is our belief that all tax return preparers should be regulated under Circular 230. Circular 230 provides the necessary standards to protect taxpayers. For clarity, Circular 230 could be amended to reflect those provisions, which are applicable for all, and those provisions, which are relevant only to those that practice before the IRS.

3. Is there a minimum level of education and training necessary to provide tax return preparation services? If so, who should be responsible for ensuring that a tax return preparer meets this minimum level and how should that be done?

Currently, there is no minimum level of education and training required to provide tax return preparation services. We believe it is the responsibility of each individual tax preparer to make sure that they have the necessary skills, education and training needed to prepare tax returns. All preparers should be subject to Circular 230 and the Office of Professional Responsibility should have disciplinary responsibility over all preparers. Because there is such a diverse population of taxpayers in which some require preparation of complex, individual and business tax returns and others require relatively simple returns, educational requirements vary in what is needed to maintain competence. Each preparer should be responsible for their own level of education and training to perform the preparation of the necessary income tax returns. CPAs already have substantial educational requirements to meet this need.

4. What, if any, service and outreach should be provided to tax return preparers and taxpayers? Who should provide (and bear the costs for) these needed services?

As stated above, we believe it is the responsibility of the individual tax preparer to have an understanding of the tax laws as it relates to the returns he or she prepares. In this respect, CPAs have access to information through the AICPA and the state CPA societies for which they are members.

We believe that the IRS is in the best position to have the primary responsibility for taxpayer and tax preparer outreach. The current system of web and email alerts and dissemination through appropriate professional organizations works well.

5. Should tax return preparers be subject to a code of ethics, and if so, what specific behavior should that code promote or prohibit? How would that code of ethics interact with existing ethical standards that may already be applicable?

It is our belief that taxpayers, tax return preparers and the system in general would benefit by making all tax return preparers subject to Circular 230 and oversight by the IRS Office of Professional Responsibility. See our comments under Item 2 above regarding possible changes to Circular 230. In addition, CPAs in particular, practice under the AICPA Code of Professional Conduct, Statements on Standards for Tax Services and state Board requirements.

6. What, if any, responsibility should the firms or businesses that employ tax return preparers have for the conduct of the individuals they employ?

Individual tax return preparers should be responsible for complying with professional legal standards. Notwithstanding that responsibility, firms that employ individuals to prepare federal tax returns should make sure that these individuals comply with enforceable standards of Circular 230 and as in the case of CPAs, the Statement of Standards for Tax Services NOs.1-8. As it relates to CPAs, existing standards make the firm as well as the preparer responsible for their work product.

7. What, if any responsibility should tax return preparer professional organizations have for the education, training, and conduct of their members?

Most professional organizations provide resources for training. The AICPA and most state CPA societies have provisions for investigation and discipline of ethical misconduct. Beyond the existing framework we do not believe that professional organizations should have additional responsibility.

8. If tax return preparation services should be regulated, what, if any, special regulatory provisions should be made for individuals who are already tax return preparers, licensed attorneys, certified public accountants, enrolled agents, or software providers?

Attorneys, CPAs and enrolled agents/actuaries who practice before the IRS are subject to the rules under Circular 230. These individuals are also subject to licensing examination to obtain their professional designation. Upon achieving their designation, these individuals become subject to regulation and standards imposed upon them and are subject to CPE requirements. We advise against any result that would require duplication of regulation and standards upon attorneys, CPAs and enrolled agents/actuaries.

9. What, if any, additional legislative, regulatory, or administrative rules should the Service consider recommending as part of its proposals with respect to the tax return preparer community?

We do not believe that any additional legislation or regulatory authority is required with respect to professional and ethical standards of practice for tax return preparers other than noted in Item 2. The IRS currently has the authority necessary to regulate all federal tax return preparers. The Office of Professional Responsibility can be expanded to monitor all tax return preparers. The IRS could extend its PTIN system and make it mandatory bringing all registered tax preparers (i.e., having a PTIN) under the office of Professional Responsibility.

On behalf of the Massachusetts Society of Certified Public Accountants, we thank you for the opportunity to provide these comments. We will be pleased to further discuss the contexts of these comments with you and your staff. If you have any questions, please contact Frank Constance, Chair of the Massachusetts Society of Certified Public Accountants Federal Taxation Committee.

Sincerely,
Theodore J. Flynn, CAE
President/CEO

Frank Constance, CPA
Federal Taxation Committee Chair

From: Janet Stotler, EA
Sent: Tuesday, August 25, 2009
Subject: Tax Return Preparer Licensing

Dear IRS Representative,

I have comments regarding the continuing education requirements for Attorneys and CPA's. Every EA (as I am) has had to "repair" returns done by CPA's and Attorneys. To be fair, I am sure that returns done by EA's have had to be repaired too. There are bad apples in every barrel due to intention, negligence, laziness or plain stupidity. However, EA's are at least required to have their continuing education in the field of taxation in order to be deemed competent to do tax preparation. Neither CPA's or Attorneys are required to take any continuing education in the field of taxation at all. Once they pass their exams, they are considered to be statutorily competent to prepare returns. That doesn't mean they are. They have many other topics of education that will fulfill their licensing requirements. I personally think that tax should be a specialty and you should have to prove you are keeping up to speed in that specialty area by means of continuing education. They should have to take as much tax education as EA's do. Courses in Criminal Justice or Auditing are important depending on their practice focus, but they don't help prepare tax returns. I also think that continuing education providers should send notification to the OPR of education taken. A magnetic or other type of electronic filing protocol could be developed and that info just sucked into each professionals record. It should also automatically alert OPR when a renewing individuals account does not have the required amount of CPE on file. Then when it becomes time to renew, the IRS can send out a transcript of that, or the professional could have a way to check it online to be sure that there are no omissions. This ensures that preparers really took the education they said they did. Again there are bad apples in every barrel and I am sure there are preparers out there, even EA's, who are lying through their teeth and their renewal forms. I also think preparers of all ilk should be required to maintain E & O insurance in order to practice and that proof of continuous insurance be supplied for renewal so that someone does not sign up and cancel just before renewal is due. This is protection for the client. After all, even well intentioned preparers can overlook something, make a mistake, fail to connect the dots and the practitioner may not have sufficient assets to be able to make the client whole. Not having E & O also forces clients into having to sue the professional. The attorneys make out. No one else does. Another thing that needs to be done is to have the list of licensed professionals public on the IRS website. Currently, not even EA's are on the website. You have to email to find out. Just in the past 2 years I have had 3 client who had big time erroneous returns prepared by unlicensed individuals. One of which did not sign the return. This is in California. I knew the individuals were not licensed by CTEC because CTEC has a comprehensive searchable database on their website. I knew they certainly were not CPA's or Attorneys because that appellation was not appended to their names (the ones who signed) but I was able to check and see that too. I had to Email to see if either one was an EA. One apparently had been but was no longer for reasons not divulged. Even when I emailed back to request it. CTEC not only lists current licensees but former licensees. This seriously impedes consumers ability to see whether or not their preparer is in fact licensed. Again, licensing does not guarantee competency, but it sure is a start. A while back there was some discussion of layered licensing. I think this would be a good idea since there are specialty areas that require more expertise. For example, supposedly I am qualified to do all tax returns. I will not touch estate and trust returns. I am a business return kind of person. My background is accounting. There are preparers out there who wouldn't know what a Balance Sheet or P & L should look like and the interaction between the two. These people should not be preparng business entity returns but they are. I am sure there are people out there who are licensed who are preparing returns they have no business preparing just because a client asked them to. (The clients mom died-can you prepare the estate return etc., or the client decided to incorporate the business). Two of the mangled returns I spoke of earlier were corporate returns. In fact, I took one look at the Balance Sheet on the return of one of the clients and told them that they would be lucky if they did not get audited. When I looked at the P & L, the only income reported was what the clients recieved 1099's for. As a corporation, they shouldn't have gotten any and certainly did not get 1099's for all income recieved and didn't even match what showed on the books of account such as they were. We received the audit notice 3 weeks later while I was frantically trying to redo a whole year of bookkeeping so I could file amended returns. The in house bookkeeper (clients daughter) didn't know what she was doing either.

The fact that the bookkeeper didn't know what she was doing doesn't absolve the tax preparer who should have known something was wrong and fixed it. The tax preparer did bookkeeping too. The tax preparer was clearly incompetent as both a preparer and bookkeeper at least as far as corporate returns were concerned. I think there is a very real argument for layered licensing for the specialty returns at the very least; Business Entity, Non Profits, Fiduciary. I personally think that bookkeepers should be licensed as well but that is a different story and out of the IRS purview. I also had to repair/do 10 years of fiduciary returns for a local Private Foundation that had actually been prepared by a CPA as a public charity even though the foundation didn't pass its 8734 test. So CPA's and Attorneys should not be exempt from the specialty licensing requirements. There were many thousands of dollars of penalties that the foundation would have been liable for if the IRS had not graciously complied with my frantic requests for abatement due to reasonable reliance.. Perhaps even cleaning it out as it is very small. The IRS also does not do enough to promote Enrolled Agents. People very rarely know what that means or have even heard the term. You always hear/see "see your CPA or Tax Accountant" in publications or forums. Very rarely is it mentioned that there is another Tax Professional designation out there.

Sincerely,
Janet Stotler, EA

From: Douglas A. Cummings, CPA, CITP, MBA
Sent: Tuesday, August 25, 2009
Subject: "Notice 2009-60"

Dear Sir or Madam:

The subject area of "tax preparer standards" has been a hot button of mine for years. I have seen many instances where I had new clients come in to my firm after receiving notices from the IRS about their returns. On all occasions the returns were prepared by tax preparers that were non-CPA's. I had two returns this year that were either a partnership or C-Corp that were prepared on a Schedule C. The partnership return was prepared by a well known tax franchise advertising on TV and the other by a local kitchen counter type of tax preparer. I ran across a new client this summer where I am reviewing their last 3 years returns to respond to IRS notices and the tax preparer put mortgage interest on the return on form 8829 and the rest on schedule A. No issues here except they deducted mortgage interest again on schedule c which "double dips" the expense. Again, this return was prepared by a non-CPA and done by a tax franchise type of company. I have been in this business for over 25 years and I see this as a rampant problem that drastically needs to be addressed. I fully believe that these kitchen counter tax preparers and tax franchise companies should be gone. It is evident that they don't understand the regulations and are costing the taxpayers (IRS and government too) millions of dollars in tax revenue. I also agree that the ones that are left should be held to higher standards and penalized drastically for major infractions. As a CPA (active licensed) I spend at least 40 hours per year in CPE's to keep my license and of that 40 hours at least 20 hours is in the tax area.

Douglas A. Cummings, CPA, CITP, MBA

From: Gary Bluhm
Sent: Tuesday, August 25, 2009
Subject: Notice 2009-60

I have been working independent for the last four years, and to listen to "good intentions" from the IRS / Secretary of Treasury to license those preparers who are not CPA, tax lawyers, or Enrolled Agents, does not make me feel better about the issue. In my years of tax preparations, I have found that the taxpayer is usually responsible for those good and bad tax returns, and about the only good relationship a tax preparer has with the taxpayer is the information concerning IRS regulations in the preparation of the return. In those "bad" situations, the taxpayer has been schooled by other tax preparers and simply goes to another tax preparer to have the return done and the taxpayer simply provides bad information. That is why I like those clients that return year after year, then as a tax preparer has developed that trusting relationship and both the tax preparer and taxpayer can feel the mutual assurance that the tax return is being prepared satisfactorily. But if the IRS / Secretary of Treasury decide to license those tax preparers, then I would appreciate that the testing be straight-forward and take into account that not all tax preparers do other returns (like 1120C, 1120S, 1065, 1041, 990, and 706). That is my situation, and I only do individual returns. I am not trained in those other returns, nor have I ever prepared one. I am in the process in learning more about them, but not to the point that I could professionally prepare one. I feel completely confident that I could prove through an individual test that I am one of those tax preparer worthy of my skills and trade. I will add one more comment. I feel that the IRS will always have to examine each tax return to determine if a certain return ought to be audited. That is something that the IRS will always have to determine. And if a certain tax preparer is constantly preparing these certain returns, then the IRS ought to alert the tax preparer that the person is preparing these x amount of returns that are being audited and that required schooling and additional training is required, or the IRS will deem stricter determinations (like penalties, or worse). Thank you for reviewing my comments, and I hope they will prove helpful for the betterment of doing tax returns.

From: Sunny Acre Tax
Sent: Tuesday, August 25, 2009
Subject: 2009-60

I am an uninvolved agent at present time. I purchased a tax business last year in November that had been in business for over 30 years because the owner wanted to retire. The business is open year around that does other accounting and payroll services. So we are not one of the fly by night that is open only during tax season. The clients consist of mainly farmers and business owners. They do about 500 returns a year but only about 10% are individual returns. We are small in comparison to some organizations. But in my county in Kansas that has 3000 people in 2000 square miles, we are big. First, let me tell about myself. I graduated with a BS in Education, minor in Business and went on to get a MS degree in Business Management. Wife and I have a small business selling craft products to craft stores through US and Canada but is now very low volume because of imports from China really cut into our market. I started looking into buying this business well over a year in advance from purchasing. During that time frame all that I did was study everything I could on current tax laws. Had several classes in college on taxes but that had been almost 25 years ago and a lot has changed. I joined NATP six months before acquiring the business and through their organizations took several online classes in preparation. I became licensed by the state in insurance for life/health and auto/home. So you can see that I take this business very seriously. Now my thoughts on the preparer tax business. I firmly believe that there should be some regulations in regards to the industry. When car dealerships, check cashing facilities, gas stations are doing tax returns to bring in clients, this really presents a bad image for the industry. I believe they are taking advantage of the lower income clients by using RAL and RAC to get their money. My company did RAL for one year and felt that our clients were being taken advantage of and our morals couldn't allow us to do that.

My recommendations are:

- 1) Regulate heavy on RAL and RAC providers. (Maybe even ethics classes for them)
- 2) Every paid preparer have a PTIN and everyone within an organization that might do anything with a return. i.e.: check cashing center that gets the info and then sends to someone else to enter data onsite or off site. This is the control number already in place.
- 3) Monitoring the program (i.e.. Turbo Tax) providers. I currently use Drake and we updates as laws change within tax seasons like they did this year. I am sure some providers didn't send out updates to all their clients. Some don't even know who their clients are.
- 4) Testing on general knowledge on tax laws. As a former teacher I know you can make a test where everybody can fail or everybody can pass just by how the test is written. The insurance tests that I took proved to me that they wanted a low pass rate and low scores. Some people are intimidated by taking written tests that know the subject but just can't do good on tests.
- 5) Continuing educations is a must! Mandatory to keep current and without this shouldn't be in business.

Thank you for hearing me out.
Gary Floyd

From: Ruthiestax
Sent: Tuesday, August 25, 2009
Subject: PREPARERS LICENSING

TO WHOM IT MAY CONCERN:

I AM LICENSE AS A " LTC" (LICENSE TAX CONSULTANT) IN OREGON. OUR CONTINUING EDUCATION TO MAINTAIN OUR LICENSE IS A MINIMUM OF 30 HOURS EACH YEAR AND MUST CONTAIN UPDATE MATERIAL. OREGON'S REQUIREMENTS ARE A LOT AND I FEEL THAT BY OREGON LTC'S TO HAVE TO REPEAT THESE REQUIREMENTS SHOULD NOT BE REQUIRED. THE OTHER THING I DON'T UNDERSTAND IS ON POA'S THERE IS NO PLACE FOR LETTER A LICENSE TAX CONSULTANT INSTEAD FEDERAL REQUIRES US TO BECOME AN EA. IF OREGON TAX CONSULTANTS WILL BE REQUIRED TO ALSO BE LICENSED BY THE FEDERAL GOVERNMENT AND THEY ALSO HAVE THEIR EA THIS WILL MEAN MANY MORE CONTINUING EDUCATION HOURS UNTIL WE SPEND ALL OUR TIME LEARNING AND NONE PERFORMING. ALSO WITH 3 TYPES OF LICENSING THE INFORMATION IN OUR CONTINUING EDUCATION WOULD HAVE TO EXPAND.

THANK YOU FOR LISTENING TO MY CONCERNS AND HOPE WE CAN FIND MIDDLE GROUND
RUTHANN ROSE, LTC OF OREGON

August 25, 2009

Internal Revenue Service

CCPA:LPD:PR (Notice 2009-60)

RE: Proposed regulations of tax preparers

I spent this afternoon reading the transcript of the July 30 forum. Great forum - your own speakers giving their prepared support for your plans - and not one person to speak against the proposal, not one comment from anyone else in attendance. It is clear that you are merely making a pretence of public input and dialogue about regulating tax preparers; you have already decided that you will regulate preparers. Your only decisions now are how burdensome and expensive those regulations will be. Your first speaker, Robin McKinney, was there to promote her Maryland program as a model; she never mentioned a single word about whether or not her program is effective. Are violations and errors down in Maryland since she instituted her program? If they were, it seems she might have mentioned it. Instead, her only concern is power – the ability to control the tax preparation business. Paul Harrison was the first one to mention an important point which I doubt you comprehend: your program will merely lend credibility to people who sign up to take your test, then hold themselves out as IRS qualified preparers. It will have no bearing on their ability, ethics, or quality of returns filed. He also stated a falsehood which you accepted as "fact." He claims taxpayers have been told they cannot file a tax return because someone else has claimed their children on another return. Perhaps a few have been told that. I have experienced numerous taxpayers who have had this happen; never have they been told they could not file a return. Always they have been told that, in order to claim the disputed child, they must file a paper return. I have had a significant number of those persons ask to e-file their return without claiming the disputed child, merely because it is easier or they are in a hurry to get whatever refund they can. The real issue here is the IRS inability to manage these situations. Of all the paper returns I have filed, I have seen a few where the IRS bothered to send a letter to one of the filers. I have never seen one where the IRS disallowed the child on either return, thus allowing two people to claim the same child. Mr. Harrison also mentioned that taxpayers do not volunteer some of the information needed to file a correct return. Indeed, those taxpayers more often lie outright as they know their refund will be smaller or their tax liability will be higher. When asked for help to manage the issue, the IRS merely shrugs and says they don't have enough resources. Michael Dolan of KPMG pointed out that you are trying to certify competence in a field so broad and so complex that IRS employees, with years of experience, cannot even be counted on to give a straight answer. John Wanchek stated that the volunteers are there to help people obtain tax benefits to which they are entitled. I am a volunteer. I am *not* there to help them claim benefits. I am there to assist them in complying with their *obligations*. The sooner the IRS and Mr. Wanchek and his organization understand that, the sooner you will have some serious compliance with tax laws. Mr. Wanchek also touts the IRS training materials and curricula. Indeed they have such materials. And those materials are lousy. They are poorly written, grammatically garbled, less understandable than the Internal Revenue Code, and of minimal use in training. For the record, please note that, although I am an attorney and an EA, I am vehemently opposed to your regulating tax preparers. The IRS is incapable of such regulation; your own people cannot perform their required functions now and they should not be trying to extend your power any further. Maybe once you get two people at the IRS to come up with the same answer to a single question, then you might consider revisiting this issue.

Marcia McCormick

August 25,2009

CCPA:LPD:PR (Notice 2009-60),

Dear Ladies and Gentlemen:

This is in response to the Services' request on how the tax preparer community can increase taxpayer compliance and how to ensure that tax return preparers meet uniform & ethical standards of conduct. Being classified as an enrolled tax preparer, Notice 2009-60 affects me. I feel if the tax preparer has the following requirements, they should be grandfathered in the new requirements; 15 plus years of tax preparation, 16 hours annual continuing education and no preparer penalties and very minimal audit notices per individual preparer in our firm. I own a firm that has been in business for 50 plus years and NO Preparer Penalties, very minor IRS audits or adjustments. All our tax preparer's take annual continuing education for year-to-year updates. Our annual update course has an hour of Ethics; maybe this should be a requirement of the annual update to ensure all tax preparers are receiving Ethics education and continuing education. I understand the concerns for the preparers that do-not continue to educate themselves on an annual basis. To take one course & assume you are a tax preparer is wrong. We see this happening with Franchise offices in our market area. Our preparers that are not CPA's or enrolled agents all have years of experience and are highly qualified preparers that should be grandfathered under any changes you intend to make for the future.

Sincerely,
Michael Glynn
Tax Preparer

August 25, 2009

CCPA:IPD:PR (Notice 2009-60),

Dear Ladies and Gentlemen:

This is in response to the Services' request on how the tax preparer community can increase taxpayer compliance and how to ensure that tax return preparers meet uniform & ethical standards of conduct. Being classified as an unenrolled tax preparer, Notice 2009-60 affects me. I feel if the tax preparer has the following requirements, they should be grandfathered in the new requirements; 15 plus years of tax preparation, 16 hours annual continuing education and minimal audit notices per individual. The annual tax update course has an hour of Ethics; maybe this should be a requirement of the annual update to ensure all tax preparers are receiving Ethics education. I understand the concerns for the preparers that do not continue to educate themselves on an annual basis. To take one course & assume you are a tax preparer is wrong.

Sincerely,
Angie Jackson
Tax Preparer

From: Velwood
Sent: Wednesday, August 26, 2009
Subject: Preparer & Compliance Issues

The best solution to increasing tax-preparer credentials, which in turn will increase the quality of the work product and, hopefully eliminate preparers who are not qualified, will be to require some type licensing procedure AT THE FEDERAL LEVEL. We do not let anyone without proper training and credentials practice law, practice medicine, represent taxpayers before IRS, etc. Why should one of the most important financial acts of the year be left to "chance" by ANYONE who desires to give it a try. To do anything less is to follow the same old bureaucratic approaches where we throw talk at the problem without any meaningful actions. This old approach will result in the problem continuing as I have seen this problem handled throughout my 35 year career with IRS. All we ever did at the highest levels was talk about the "bad preparer" problem (taking enforcement actions at times which was like stopping drugs) without taking some positive steps to correct the problem. WHY DON'T WE NOW DO SOMETHING CONSTRUCTIVE IN THE RIGHT DIRECTION. IF YOU WANT BETTER COMPLIANCE, PUT ON YOUR "THINKING CAPS",

Velwood B. McDaniel, EA
D/B/A Gulf Coast Tax Solutions

August 26, 2009

CCPA:LPD:PR (Notice 2009-60)

Dear Sir,

I have with some interest watched the discussion unfold with regards to the licensing or certification of tax preparers. I have a Masters of Law in Taxation and I have practiced in the field for several decades, as well as oversee a tax preparation firm. I find the discussion with regard to tax preparers totally misdirected. We do not need change for the sake of change. We do not need more government regulations or bureaucracy. Neither will make tax preparers more effective or efficient. Many tax payers use "underground" tax preparers. Tax preparers who do not report their tax preparation income and who do not sign returns. This group will still not be certified or licensed. They perform tax preparation at minimal cost using "off-the-shelf" software. They do not make any attempt to insure the accuracy of the returns. They merely try to reduce the tax to the lowest amount possible. Typically they file returns as self-prepared. It is fairly easy to insure the accuracy of tax returns, audit them. If the IRS started doing more audits it would bring both tax payers and tax preparers into compliance. The field audit rates are so low now that it has invited audit roulette with little chance for a negative result. Moreover, increased field audits would generate significant income for the government many times the cost of the auditors. A new bureaucracy would be expensive, ineffective and inefficient.

Very truly yours,
Elliott B. Weiss, Esquire

August 26, 2009

Captain H Frith ..
AAA Tax Consultants

CCPA:LPD:PR (Notice 2009-60)

Dear Sirs/Ladies;

I respectfully submit my suggestions for regulating tax preparers based upon more than a decade of experience preparing forms. Here is my suggestion list:

1. Require clients and preparers to maintain ASSETS FILES which shall include original invoices and/or documents for every asset eligible for depreciation. IRS should generate a master form which permits record keeping of: (A) basis; (B) accelerate depreciation taken; (C) Sec 179 depreciation expensed; (D) depreciation method utilized for item or group; (E) casualty loss; (F) conversion to personal use date and basis as of conversion date; (G) disposal or sale data showing gain or loss and allocations to appropriate forms listed; (H) Sec 150 depreciation recuperation; and (I) notation column
 2. Personal Property Tax on Sch A: require states and utilities to issue a form annually stating personal property tax paid. Only documented personal property tax may be entered upon Sch A.
 3. Dependents of Mexico and Canada & Other Countries: On the front of form 1040 on the dependent line add a box to be checked that dependent resides in MX or CN or other country.
 4. Require filer declaring dependents who reside in other countries to provide dollar amounts provided to foreign depend and the percentage that dollar amount represents in living expenses.
 5. Have preparer certify a separate document that he has reviewed and prepared documents of each and all of the above.
 6. Have preparers be either certified by their appropriate state agencies or provide a certification process at a federal level. Have state agencies electronically submit names and identifying numbers to the federal registration of preparers. Have a toll-free number or internet access site available to verify preparer national registration.
- In the initial five-year period provide free registration. In subsequent years charge a maximum of \$50.

Respectfully submitted,
Captain H Frith

From: JAMES BATIAGLIA, CEOITAX ACCOUNTANT
Sent: Wednesday, August 26, 2009
Subject: NOTICE 2009-60

I have been an unenrolled tax preparer for the last 29 tax seasons and I got my training in a variety of ways, as a student and as an employee of tax firms. I believe that some additional discipline and accountability is desirable for unenrolled preparers and would recommend the following principles: IRS should "license" or "certify" unenrolled paid preparers by making them meet at least one of the following criteria:

1. Must be an employee-apprentice of a CPA or law firm or of an enrolled agent; OR
2. Must be a recent graduate of a CFP or similar discipline that involves tax prep. OR
3. Must have at least 15 active tax clients and must not be on the Problem Preparer's List nor be convicted of a tax-related or financial-management felony.

From: Robert Anderson
Sent: Wednesday, August 26, 2009
Subject: Notice 2009-60

Re: 2009-60

Dear IRS:

I write to voice my approval for increased tax preparer performance standards. I have been a tax instructor for a LGUTEF sponsored tax short course in Minnesota for twelve years. During that time I have encountered many tax preparers, and while most are competent, there are a large number of unregistered tax preparers that do not have the skill or knowledge to handle the complexities of modern tax returns. I feel that only CPAs or Enrolled Agents should be allowed to prepare taxes. I feel that those unregistered preparers that have the required skill to complete tax returns would be able to pass the Enrolled Agent Examination and should be required to do so.

Thank you.

Robert Anderson, EA
Robert D. Anderson, CFP, EA, Principal
Robert Anderson & Associates, LLC

From: LARRY
Sent: Wednesday, August 26, 2009
Subject: Notice 2009-60

Hello, I have been carefully monitoring the proposal (Notice 2009-60) concerning tax preparers for several years. My tax business has been operating since 1991 as a ERO with no problems. My Dad started this business and has kept within the IRS guidelines and treats each and every client professionally and always watching with a careful eye for any clients that would try to scam our business or the IRS and States. My Dad and Mom trained me and we worked together until 2007 when my Dad had to have heart surgery. I took over the business and he comes in to give advice and keep up with the tax laws and monitoring of Federal and State guidelines. Only once an IRS representative came to our office many years ago, and she said she could not find one thing out of order, and wished all tax offices were as responsible as we were. We have not changed our practices since then. I understand that there are numerous tax offices opening up in homes, service stations, on the side of the road in low income areas and this is wrong. Since we started our business in 1991 there have been tax offices opened up in our area that took advantage of low income families that are desperate to get refunds anyway possible. They leave our office and go to these people and come back within a few months and they are confused and want us to help them get their Federal and State returns corrected. We always help them if we can. These kind of tax preparers are not in their offices year round and may not be back the next tax season. They draw our clients away with promises of large refunds and getting it before they ever get their W-2 forms. They come back to us with several W-2 forms and want us to fix it for them. I do believe there should be some monitoring of tax offices. There is always a way for a tax office to get around taking a test or doing what ever they need to do to keep their offices open. I realize the IRS can't have complete control of what's going on with so much happening so fast for such a short period of time. Why couldn't tax office be required to join a professional organization and go to at least 3 or 4 of the organizations meetings a year. These organizations could require them to take part in projects or test of some kind and earn CPE credits. I know that some of these tax offices would not be able or want to participate in such meetings. We belong to NATP and frequently get advice from them when we are not quite sure what to do in an unusual situation. It is a great learning experience and we never forget what we learned. Well in closing will you please consider the option of requiring tax offices to join a professional tax org. such as NATP and require them to earn CPE credits within that organization each year to insure they are keeping up with the laws and changes that every tax preparer should know?

Thank You for listening,
Cindy Holloway

Sent: Wednesday, August 26, 2009
Subject: preparer regulation

am one of the white elephants in the room. Using the most current terminology I am an unenrolled preparer. I used to be a tax practitioner or tax professional, depending on whether the professional group I belong to was called NSTP or NATP. I was a tax preparer for H&R Block off and on from 1978 until 1998 while I worked for the Federal Gov. In 1999 I started preparing taxes on my own and purchased a going business when I retired from DOD in 2005. The small business had been preparing returns for nearly 30 years. Most of the returns are individual with a few partnerships and corporations owned by the clients. The partnerships and corporations had no more than one - four members and less than \$100K in gross revenues and the owners are also individual clients. There was no Enrolled Agent, CPA or lawyer on staff, and from what I see, there were no egregious errors, misrepresentations, or any other tax avoidance issues in the returns. The clients were, and are still, loyal to the company. They know we are reputable and, most importantly, that we will help them resolve any issues with the IRS. We are there to serve them by ensuring their returns are accurate, in compliance, and timely filed. We have made errors and corrected them. I do see many returns that have been self-prepared according to the return. The client/taxpayer comes to me because I am in the office in the off-season and they cannot reach their original preparer. I have seen many returns that are obviously inaccurate. These come from not only unenrolled (unsigned) preparers and CPA's. How should we be regulated? I agree that something should be done. And I realize it will take some time to get all the regulations in place to make it work. First: We have, or should have PTIN numbers. When you send out notices to taxpayers on how to pick a tax preparer, add to the list that they should look (or ask for) for a PTIN and/or the card that assigns that number. I have one. So should every other preparer that has requested a PTIN. You can monitor those. Advise them to look for an e-filer that has an EFIN. I have one. I had to be fingerprinted and a background check in order to obtain it. This might eliminate the turbo-tax filer that requires payment and then signs the return as "self-prepared". Offer updates and ethics classes. I've missed them because they are not advertised timely. Track attendance by the PTIN number. My final comment has to do with the IRS treatment of "unenrolled" preparers. I was a big fan of e-services, but now I cannot use them. Your brochure states that any preparer that electronically files FIVE returns in a year can use the e-services. I cannot. I cannot log a 2848 on line any more. Without the 2848, I can't verify or follow status of my client's issues. I cannot obtain information even with the 8821. I cannot file a 2848 unless I prepared the return and it's under review. Ask me about the most recent IRS incident. What I'd really like from the IRS while you are trying to figure out how to stop the crooks, is to treat me with the respect and professionalism that I deserve. You DO have my information and can track my competence. There are thousands out there like me.

Respectfully submitted.
Peg Maguire
All States Tax

Sent: Wednesday, August 26, 2009
Subject: Notice 2009-60

To whom it may concern:

My name is Lisa Pace, and I am a public accountant and tax preparer. I have both my bachelors and master degrees From Iona College In New Rochelle, NY. I have been working in the accounting/tax field for over 15 years now. I also took the HR Block tax course during college. I decided not to sit for the CPA exam because I knew auditing wasn't for me, and since that was the only thing I couldn't do if I wasn't a CPA, I decided to remain a public accountant with no title. I am an ERO, and would be willing to sit fo an exam to prove my competence as a tax preparer.

The reason I write you today, is to let you know my opionion on regulating tax preparers. I agree there should be some test and or standards that every tax preparer should be held to, but I think the biggest problem is there are people who are out there who call themselves tax preparers and just don't have the proper training/education to do so. I think that all these fly by night tax schools (ie HR block, Liberty, Jackson Hewitt, etc) need to be held more accountable for the tax fraud that goes on. I took the HR Block course, and I can say with confidence that you can not learn tax law in 60 hours. This class was open book...homework, tests,etc. At the end of the course you were offered a job as a tax preparer if you passed the course. Just because you passed the course, in my opinion, doesn't mean anything. It could mean you are just better at looking things up. You may not have an understanding of the material or how to use it. They also give you a certificate of completion. I could take that anywhere and tell anyone I am trained to prepare taxes. How can you compare a person with a certificate of completion for 60 hourss, to a college graduate with 126 credits with over 2000 hours oftraining. In conclusion, my recommendation is that there should be regulation of tax preparers...and testing should be required, along with appropriate education. Those preparers with a college degree in accounting and taxation should be required to take an exam, and those who have completed only the HR block type of tax class, should be required to take additional courses before they can sit for the exam.

Thank you for allowing me to voice my opinion, I hope I have been helpful

Respectfully
Lisa Pace

Sent: Wednesday, August 26, 2009
Subject: Notice 2009-60

Dear IRS:

When you license tax preparers, please do NOT grandfather in old preparers who have no credentials. They could have been doing bad returns for a long time.

Betty Kelso, EA

From: Terrence Madden
Sent: Wednesday, August 26, 2009
Subject: Notice 2009-60

Dear Sir/Madam:

I am an unlicensed tax preparer who has been preparing tax returns for over 25 years. I do agree that ALL tax preparers should be registered and tested; however, I feel strongly that any test given should only include those areas for which tax returns are to be prepared. For example, if an individual only prepares 1040 returns, then the test should only include information related to the 1040; if he/she desires to prepare Partnership returns, then a test must be passed on material pertaining to the preparation of a Partnership return, etc., etc. To expect an individual to possess a knowledge of all facets of tax preparation when only 1040 returns are prepared is not practical nor is it fair. Any certificate of completion issued should reflect the individual's area(s) of expertise. I would also recommend that there be an option to take tests on-line. This would not only be cost effective, but most convenient for both the IRS and the individual being tested.

Thank you for this opportunity to give you my input.

Sincerely,

signed

Terrence P Madden

August 26, 2009

CCPA-LPD-PR (Notice 2009-60)

Re: Proposals to Boost Tax Preparer Performance Standards

IRS, Thank you for giving me the opportunity to comment on this subject. Should you do an additional background check, you will know that I have always tried to hold myself to a high ethical standard. If you checked your records, I do not have a history of submitting fraudulent returns. I am a self employed accountant that has neither an enrolled agent status or am I a CPA. I hold a 4 year degree in Accounting, and attended the same college classes as did the CPA's. When I graduated from college, I went to work at the local hospital where a CPA designation was not required. Even while working at the hospital, I did income taxes in the evening. I have done income tax returns since 1977 without the slightest hint of sanctions from the IRS. This past year, I prepared more than 1600 tax returns. None of them have been questioned for preparer fraud. I electronic file over 10% of my returns. I use IRS approved software from Thomson Reuters. To qualify for electronic filing, I had to go to the local sheriff and be hand fingerprinted. I assume that a background check was made on me. I usually attend 1 eight hour tax related seminar annually. I use CCH's Master Tax Guide as a reference. I have been assigned an IRS tax liaison each year for the past 3 years. I have been given a tax preparer hotline that tells me each time that I call that my call may be recorded. I am required by law to sign every return. I am required by law to keep a copy of every return. Based on the above information, what makes you think that I am under regulated? One of my competitor's was an enrolled agent and convicted of an embezzlement related felony. He lost his practice because his electronic filing license was suspended. The public would not use a preparer that could not electronic file. I'm curious as to how many CPA's and enrolled agents fraud the IRS compared to other tax preparers. H&R Block can have a CPA in Kansas or Missouri, and then train high school graduates to prepare forms in remote areas. Is this initiative coming from a CPA lobby, or a genuine perception that non licensed agents are frauding the IRS? My business law classes tell me that there is a motive behind this initiative. My average charge to my clients is about \$45.00 per return. My CPA competitors for the same returns are 5 to 10 times as high. Are they trying to eliminate me as an alternative for the general public? Why should we have a tax code that is so complex that you are worried about having to hire a CPA to do a simple tax return? Are you saying that an accounting college graduate, with over 30 years tax experience, a clean record with the IRS, and high ethical standards should be prohibited from doing a tax return? I contribute to my community. I hire 16 part time people in tax season. I belong to the local Chamber of Commerce. I advertise in the local newspaper. I buy computers, I buy software, I buy office supplies, I use electricity, water, and natural gas for heat. I have an office in a town with many decaying and empty buildings. My employees pay Federal, State, School, and Village taxes. I have never been on food stamps, unemployment or government housing assistance. I am 53 years old and have dedicated my life to serving my community as a tax preparer. I am being lumped into a category where I am assumed guilty because I am not a CPA or an Enrolled Agent. Your commentary states that attorneys will still be entitled to prepare taxes. So, a divorce lawyer can prepare a tax return, but a thirty year veteran accountant that is a non CPA cannot?

The largest town in my county has 3500 people. The only CPA firm is one with a branch in our town with a home office in another county. The unemployment rate in Northwest Ohio is around 15%, and you want to take away an alternative to prepare taxes at a reasonable rate. How do you fraud the government when the only income is a W-2? How does this assist the IRS or the public? Are you saying that all the people in our . county need to travel to other counties to get their taxes done? How does this help the local economy and the 16 people who currently have part time winter jobs?

I want to help to assure that the tax system is fair and equitable. I have never promoted tax evasion or fraud. There is no way to police all the tax preparers by licensing them. Individuals pay taxes, tax preparers prepare taxes, and IRS agents collect taxes. Murphy's law says that at any of these sources, fraud or mismanagement or sloppy records, or human error can occur. You can restrict the laws so that only certain classes of individual can prepare returns. How much fraud will you eliminate by telling me that I can no longer prepare taxes? The answer is none. I cannot speak for other tax preparers. I am not a threat to the IRS to promote tax evasion. I understand that preparing taxes is a privilege and not a right. I also understand, that if you were interviewing candidates for the job, that I would be an experienced qualified applicant. I can find another job. How do I explain to 1600 clients, that the 1600 trusted relationships that they and I have developed over 32 years must end because the IRS no longer trusts my qualifications? Will they get any better service from a CPA firm that will assign a clerk to their return and have a CPA rubberstamp the return? Will they get better results and better service from a H&R Block course? Will the IRS receive any higher collections from the CPA's or H&R Block? In summary, I am opposed to any regulations limiting tax preparers to CPA's, attorneys, and enrolled agents. I believe there are sufficient current regulations to enforce sanctions on bad tax preparers in whatever class of preparers. I believe that you are forgetting about rural America where the tax preparer is a trusted advisor earning respect over many years. I do not comprehend how the proposed regulations increase compliance. I would rather see you focus your attention on simplifying taxes.

Sincerely,
John R. Manz

(Responding bullet by bullet)

- In my 16-year experience as a tax preparer, I have found that all kinds of people enter the field, from retired college instructors (like me) to retired military personnel, housewives, househusbands, the children of current tax preparers, and all sorts and conditions of people in between. If they work for H&R Block, as I once did, their services are relatively well monitored and their training is mandated by the company. I do not have any information about companies like JK Harris and how they monitor or train their employees. The major improvement to the issue of unmonitored tax pros should be enactment of a Federal requirement that includes registering the preparers and mandated hours of coursework and/or training. I would hope that state governments would follow suit.
- As an EA, I am, like many of my fellows, a member of the National Association of Enrolled Agents and of its state affiliate, the New Mexico Society of Enrolled Agents. We EAs are governed by Circular 230 and by NAEA guidelines with respect to continued education, especially in Ethics.
- I suspect but do not know that "differences in regulation and oversight" undoubtedly affect how tax preparers interact with clients: unscrupulous preparers will take advantage of clients and will ignore the rules, so to speak, in dealing both with clients and the IRS. Sometimes these people are caught, often not. Taxpayers need protection from them!
- I am not aware of "a minimum level of education and training necessary to provide tax return preparation services" for those not employed by companies that have such requirements or for those not already Enrolled Agents. I think that that minimum should exist and be enforced by the Department of the Treasury and, perhaps, by the state governments. This would have to be done through legislation, of course, that would require registration of the preparers and monitoring of their continuing education and training.
- The Department of the Treasury and the Service are the logical national level agencies that can provide "service and outreach to ...preparers and taxpayers." As I indicated in the previous bullet, it will require further bureaucracy in the form of monitors and registrars. Both the Federal and the state governments should be responsible for protecting both the taxpayer and the preparer.
- Of course tax return preparers should be "subject to a code of ethics" Circular 230 should suffice as the source for that code, and the code should prohibit falsifying, suppressing, or otherwise tampering with the taxpayer's information. The code should also establish penalties, as Circular 230 does, for violations.
- The employers of tax preparers should bear responsibility for the employees' conduct. The employers should also mandate continuing education so that the preparers are not only up to date on tax changes but also so that they maintain a reasonably high level of proficiency in the kinds of returns they prepare.
- The NAEA sets the standard for how professional organizations should take responsibility for the "education, training, and conduct of their members." I was formerly a member of two other such organizations: the National Association of Tax Preparers and the National Society of Tax Preparers, and I felt responsible for upholding their standards as well as those of NAEA. I also took the opportunities they offer for continuing education because, as an Enrolled Agent, I have both IRS and NAEA requirements to meet.
- As for those "who are already tax return preparers, licensed attorneys, certified public accountants, enrolled agents, or software providers," it seems to me that, if there are no ethical or other questions in their histories, they might be grandfathered in, but that also seems to me to be cumbersome and very likely a source of indignation, at the least, and of anger on the part of the affected people.
- I think the existing legislative, regulatory and administrative rules should be sufficient to govern the tax return preparer community. There is no reason to reinvent that particular wheel.

August 27, 2009

Hon. Douglas Shulman - Commissioner

Re: Internal Revenue Service Public Forum on Tax Return Preparer Review

Dear Commissioner Shulman:

Per Notice 2009-60 please find below comments from the Louisiana Society of Independent Accountants (LSIA) related to the request for comments. IRS plans to produce a set of recommendations by the end of this year on methods to ensure uniformly high ethical standards of conduct for tax preparers. Overall, we agree with many of the comments submitted by the National Society of Accountants (NSA). As such we will not duplicate these comments in this letter. However, we do have exceptions that should be answered.

1. What types of individuals, entities, and professionals currently work as tax return preparers?

Be aware that there are many tax preparers in the industry who are not EA's or CPA's, but who are honest and qualified tax preparers. These preparers make special and continued efforts to attend professional education seminars, keep up with changes in the tax law, and provide excellent services to taxpayers. This group of preparers should not be abandoned.

2. Should tax return preparers be subject to a code of ethics, and, if so, what specific behavior should that code promote or prohibit? How would that code of ethics interact with existing ethical standards that may already be applicable?

We support that all paid tax preparers must be held to high ethical standards. The standards contained in Circular 230 are appropriate for all paid preparers for this purpose.

3. We concur with registration of all paid tax preparers. Internal Revenue Service Public Forum on Tax Return Preparer Review

4. We agree with an orderly (phased) implementation of registration and/or testing over a two or three year period so as not to disrupt the filing process, including extensions.

5. We strongly support a requirement for continuing education for all paid tax preparers. Tax preparers should be required to take mandatory continuing education. All paid preparers should be required to have annual CPE, which should be no less than that currently required of Enrolled Agents - 24 hours per year including 2 hours of ethics.

6. In addition, paid tax preparers should be required to submit documentation of CPE seminars attended when renewing their registration and/or credentials. We appreciate the opportunity to provide these comments as part of the IRS plan to produce a set of recommendations by the end of this year on methods to ensure uniformly high ethical standards of conduct for tax preparers.

Thank you for your time and attention in this matter. Should you need to contact me please feel free

Sincerely,

Lloyd Dore III

Lloyd Dore III, EA, ATA, ATP

President

Louisiana Society of Independent Accountants

August 27, 2009

The Honorable Douglas Shulman, Commissioner
CCPA:LPD:PR (Notice 2009-60)

Dear Commission Shulman:

The Maryland Association of CPAs, Inc. is a professional organization representing over 8,000 licensed CPAs throughout Maryland. We appreciate the opportunity to provide comment on the Internal Revenue Service's review of issues concerning tax preparers.

Our recent experience at the state level has allowed us to consider this issue in depth. In 2007 we were invited to work with a coalition of tax industry groups to develop a system for registration of tax preparers in Maryland. After hearing testimony from all of the stakeholders and incorporating amendments put forth by MACPA, the Maryland legislature passed the Maryland Tax Preparers Act in 2008.

With that background in mind, we wish to share our comments on this issue.

1. What types of individuals, entities and professionals currently work as tax return preparers? How are their tax return preparation services currently monitored or regulated by professional organizations or the government? How could this monitoring and regulation be improved?

Circular 230 governs practice before the IRS by CPAs, attorneys and enrolled agents.

These tax practitioners are currently regulated and should be exempt from any additional compliance requirement considered by the IRS. CPAs are regulated by the state boards of accountancy in which they are actively licensed, obligated to abide by a professional code of conduct, and required to maintain professional competence through eighty (80) hours of continuing education every two years. Any additional monitoring or regulation of this group is overly burdensome and unnecessary.

2. How do difference in regulation and oversight affect how the various groups of tax return preparers interact with the Service and taxpayers?

Circular 230 practitioners have an added responsibility of oversight and regulation. If disciplined, they could face reprimand, censure, or suspension from practice before the IRS. They are obligated by IRS code and treasury regulations to notify clients of any errors or omissions on returns they've prepared. Unenrolled preparers have no such requirements. As a result, it is the taxpayer that is potentially at risk through inaccurate preparation of returns, incompetence, unscrupulous practices or ethical violations. A report dated September 2, 2008, from the Treasury Inspector General for Tax

Administration provided the results of a review to determine whether taxpayers receive accurate preparation of their income tax returns when using unenrolled paid preparers.

The report concluded that "Most tax returns prepared by a limited sample of unenrolled preparers contained significant errors".

3. Is there a minimum level of education and training necessary to provide tax return preparation services? If so, who should be responsible for ensuring that a tax return preparer meets this minimum level and how should that be done.

We support a requirement for all unenrolled tax preparers to pass a competency exam.

The examination should be administered by an **independent regulatory authority**, so as not to allow inferior "credentials" that have no real oversight. Our recommendation is to use Part I of the Special Enrollment Examination administered by the Internal Revenue Service. This is a national standardized examination created by an independent regulatory authority.

4. What, if any, service and outreach should be provided to tax return preparers and taxpayers? Who should provide (and bear the costs for) these needed services?

If one of the goals of this effort is to "help increase taxpayer compliance" there must be a coordinated effort to educate taxpayers of their rights and of their responsibilities as it relates to their tax returns. We have actively done this as part of a broad financial literacy education initiative to help educate the public about their rights and responsibilities when working with tax preparers.

5. Should tax return preparers be subject to a code of ethics, and if so, what specific behavior should that code promote or prohibit? How would that code of ethics interact with existing ethical standards that may already be applicable?

Integrity and objectivity are core values of the CPA profession. The Code of Professional Conduct of the AICPA and the MACPA is made up of principles and rules.

The principles provide the framework for the rules, which govern the performance of professional services by all members - whether in public practice, industry, government or education. Those principles include

integrity, objectivity and independence, and due care. We support adopting rules of professional conduct for un-enrolled tax practitioners as appropriate, to establish high standards of integrity.

6. What, if any, responsibility should the firms or businesses that employ tax return preparers have for the conduct of the individuals they employ?

Firms or businesses that employ tax return preparers should ensure that those individuals comply with Circular 230 standards.

What, if any, responsibility should tax return preparer professional organizations have for the education, training, and conduct of their members?

Reputable professional organizations, such as AICPA and MACPA, already provide educational programs and training courses for members. Both also require members to adhere to a professional code of conduct. It is the responsibility of the individual professional organizations to dictate any specific membership requirements.

If tax return preparation services should be regulated, what, if any, special regulatory provisions should be made for individuals who are already tax return preparers, licensed attorneys, certified public accountants, enrolled agents or software providers?

As stated in our response to question #1, CPAs and other Circular 230 practitioners, are already regulated and should be exempt from any additional compliance requirements under consideration.

What, if any, additional legislative, regulatory, or administrative rules should the Service consider recommending as part of its proposals with respect to the tax return preparer community?

For all unenrolled practitioners, we recommend that the following disclosures to be presented to potential clients in advance of services rendered:

- o The tax practitioner's name, address and telephone number;
- o the tax practitioner is not a Certified Public Accountant, Enrolled Agent or a Tax Attorney and therefore, may not represent the client before the IRS;
- o services that the preparer is qualified to provide
- o the preparer's education and training, including examinations taken and successfully passed.

As Certified Public Accountants, our members fully support protecting the public from unqualified preparers and fraudulent practices. We applaud the Service's goal to "help increase taxpayer compliance" and "ensure that the tax return preparers meet both uniform and high ethical standards of conduct".

The Maryland Association of CPAs is the only statewide, professional membership organization dedicated to serving the needs of Maryland Certified Public Accountants.

Founded in 1901, when the Certified Public Accountant statute was signed into law, the MACPA has been actively working to serve the needs of Maryland citizens and its CPA members ever since. We often say that "Public" is our middle name and our track record shows it. We work with Federal and State regulators and legislators to protect the public interest and enable our members to comply with the highest standards of the CPA Profession.

Please feel free to contact us if we can provide any additional information.

Sincerely yours,

J. Thomas Hood, III, CPA
CEO & Executive Director

From: Natalie
Sent: Thursday, August 27, 2009
Subject: "Notice 2009-60"
Attachments: MAX BAUCUS.wpd

Doug Shulman:

Attached you will find my suggestions, comments and requests pertaining to the "Notice 200960" Tax Preparer Performance Standards. It is my desire to sit on a committee if one is established in the Montana or Idaho area so I may assist in perfecting this program. I have already submitted suggestions previously to IRS employees for submission to their superiors on issues at hand pertaining to the Power of Attorney Form 2848 and CAF-2.01 Rev 2-202009 pertaining to unenrolled return preparers. Although this does not have anything to do with tax preparers, I have also found an issue with improper calculations on the Offer-in-Compromise (Form 656) which needs to be addressed. I hope the attachment will be helpful to you. Thank you again for giving me this opportunity to provide my input I look forward to hearing from you pertaining to a position on a committee. Notice.Comments@irs.counsel.treas.gov

August 27, 2009

Items "bolded" for "quick reference" purposes only

CCPA:LPD:PR (Notice 2009-60), Room 5203

Doug Shulman:

It is with great pleasure I submit my information and comments pertaining to the "consistent standards for taxpayer qualifications, ethics and service" you are affording me and others the privilege to respond to. This email contains a letter pertaining to the above mentioned which I faxed to the following on March 23, 2007 (2 Y2 years ago). I received "NO" responses!!

Senator Max Baucus

Senate Finance Committee -

Nina Olson/Washington National Taxpayer Advocate -

Senator Charles Grassley -

President Robert Fukuhara, IrlNational Society of Accountants -

It is my desire that you will, at this time, consider the issues I have addressed in that letter of March 23, 2007 and also what I am about to suggest and request. I have my degree in teaching and as we have all heard "experience is your BEST teacher." The following are some of my suggestions pertaining to "tax preparers" who are "not" Attorneys, CPAs nor Enrolled Agents:

1) "Experience" and "knowledge" should be addressed first and foremost.

2) Testing is helpful.

3) Continuing Professional Education (CPE) is crucial.

a) A minimum of 30 hours of CPE should be required "each" year.

4) Ethics courses should be over and above the 30 hours of CPE.

5) Security Clearance should be a requirement to eliminate the Tax Protestors.

6) I attended the first seminar ever held at the Ogden Service Center in 1989.

These seminars continued, I believe, for eight (8) years and I attended all of them. (Then the money ran out and that ended the Ogden seminars.)

a) It was my understanding for the initial meeting in Ogden that "all" attendees were "security cleared" before we were allowed to attend.

7) Tax Returns Filed Timely should be a requirement due to the fact this is indicative of Tax Protestors or someone who is a non-conformist.

a) This should apply not only to tax preparers but to Attorneys, CPAs and Enrolled Agents alike.

b) A CPA was denied the right to attend the first seminar in Ogden, UT due to the fact she had "not" filed one of her tax returns on time.

8) Grandfather Status granted to those with a certain amount of years of seniority (15 years?) who specialize in the tax area, experience, expertise, CPE and have exhibited professional and ethical behaviors during that time frame.

a) Seniority would "exempt" the tax preparer from further testing, i.e. disability or medical issues, etc.

9) All "unenrolled" tax preparers should be held to the "same standards" as Enrolled Agents.

10) What the Internal Revenue Service is attempting to do now is what we were doing in

the 1989+ meetings in Ogden but on a broader basis.

CAF 2.01 Rev. 2/20/2009 is in "SERIOUS" need of revision. It is very confusing, ambiguous, contradictory and causing the unenrolled preparer serious problems. The employees at the Internal Revenue Service are confused on its interpretation.

I) I faxed an Internal Revenue Employee in the Power of Attorney section in Ogden suggestions to pass on to the proper authorities for improvement within the past 6 months. Offer-in-Compromise (OIC) is in need of revision. There appears to be an error pertaining to calculation and document requirement to adequately complete the Form 656 properly.

I) I worked with Joe Thompson, an employee in Ogden, UT, in perfecting the OIC back in the early 1990's.. To better enlighten you on my qualifications, I submit the following experiences and accomplishments over the past 37 years in my dealings with the Internal Revenue Service.
professional Status:

Tax Accountant for individuals, small business, mediate divorces, negotiator, represent individuals before the Internal Revenue Service, and various other Federal and State organizations, tax and financial planning. Have represented individuals from tax protestors to a prosecuting Attorney from Idaho and Montana Supreme Court Judge before the Internal Revenue Service. currently serving on the Missoula County Tax Appeals Board by appointment of the County commissioners (6th three year term - 18 years).

Managed the selective service System in Bozeman, Montana from 1960 to 1963 under General Mitchell.

volunteer Income Tax Assistance program (VITA) established by the Internal Revenue Service in 1978, (I was in the first group to volunteer).

Member of National society of Accountants (NSA) , Washington Association of Accountants (WAA) , Montana Society of public Accountants (MSPA), State Board of Directors (District I) Idaho Association of Public Accountants (IAPA).

Assisted Senator Max Baucus (Montana) during the Senate Finance committee Hearings with suggestions to reorganize the Internal Revenue system.

My experience of 37 years in representing the Taxpayer before the Internal Revenue service has given me great insight into policies and procedures followed by the Internal Revenue service. I have been instrumental over the years in suggesting to both the Internal Revenue service and the Montana Department of Revenue certain procedures beneficial to both the Taxpayer and the systems.

I take great pride that some of my suggestions were adopted by both systems and are still in use.

My success with offer in Compromise cases have allowed the Taxpayers who have become entrapped in business failure, divorce, health and medical circumstances to start anew with the Internal Revenue service.

1) One of my 5 cases (Montana, Arizona, Ohio) submitted to the senate Finance committee was chosen (ohio) for examination by senator Max Baucus of Montana and senator Oxley of ohio. Results of the examination were very successful in favor of the Taxpayer which culminated in an offer-in-compromise after twenty six (26) months.

In November, 1999 I was recognized by the Internal Revenue service at the 9th Annual Tax symposium at ogden, UT for my success with the senate Finance committee offer-in-Compromise case.

On November 5, 2000 in Missoula, Montana I participated in a Round Table discussion conducted by a Member (appointed by president clinton) of the Internal Revenue service "oversite Committee," with eight (8) affluent Tax Attorneys from washington State and Montana, a prior Internal Revenue service District Director and one (1) retired CPA (all males).

In December, 2001 I was instrumental and successful in obtaining an offer in compromise for an Attorney-at-Law from Idaho with the Internal Revenue service. Due to my vast knowledge and familiarity with the Internal Revenue Service policy and procedures over the past 37 years I would like to be invited and would be honored to sit on a committee addressing these issues with the desire of assisting the Internal Revenue Service in setting proper standards of ethics and professionalism as it pertains to tax preparers. Due to my expertise and experience over the past 37 years in representing my clients professionally and ethically at the audit and collection levels before the Internal Revenue Service, I am requesting

consideration be granted to me through a "grandfather status" the right to continue to represent my clients at the audit and collection levels in the manner to which they are accustomed.

Thank you.

Respectfully submitted,

Natalie L Carlson

NATALIE L CARLSON

March 23, 2007

Max Baucus, Senator

Items "bolded" for "quick reference" purposes only

Request "Grandfather" Status Rights to Practice Before Internal Revenue Service Due to 33+ Years of Expertise and Experience Max, et al

I need your help. My rights to continue to make a living is being taken away from me after 33+ years at age 69! I have been a "Tax Accountant" (by my own entitlement in 1970) with 33+ years in Missoula, Montana (born in Butte). I conduct my Profession and Business according to GAAP and adhere to the Continuing Professional Education Courses required of the CPA's and Enrolled Agents. I have represented Taxpayers before the Internal Revenue Service in Audit, Collection, Automated Collection System, executed closing agreements, extended the statutory period for tax assessments or collection of tax, executed waivers, executed claims for refunds, received refund checks, prepared and negotiated many successful Offer-in-Compromises and one Appeal in Montana. Some of the individuals I have represented were tax protestors, a prosecuting attorney from Idaho and a Montana Supreme Court Judge during my career. I have enclosed a copy of my Qualifications, Contributions and summary of cases with the Internal Revenue Service and other taxing authorities. I am currently serving my 16th year on the Missoula County Tax Appeals Board. During the time of the Senate Finance Committee Hearings you were a part of a group who was working to reorganize the Internal Revenue Service. I forwarded a large amount of information pertaining to improvement of the Offer-in-Compromise program as well as other ideas which I had developed over the years to you through Maria who was working for you in Washington, D.C. along with five (5) cases I was requesting help with. William V Roth, Chairman United States Senate, Committee of Finance wrote me a letter dated March 12, 1998 pertaining to my cases I had submitted. You and Senator Oxley of Ohio chose one of my cases which was from Ohio while you were both at the Senate Finance Committee Hearings held on or about 1998. In fact Oxley telephoned me personally pertaining to the Ohio case. Through United States Senator Mike DeWine, Offer-in Compromise Specialist Richard Moecia of Ohio, an employee of the Internal Revenue Service, was assigned to my case. With the revamping of Circular 230 and enforcement thereof, I am being denied the privileges I have utilized for many years, therefore, making it difficult for me to service my clients as I had in the past and continue to make a living in the only field I have expertise and knowledge in. I have been and still am a "recognized representative in my own right" due to my record and expertise in the tax field, have had a CAF number for many years and I am "qualified" to practice before the Internal Revenue Service. My qualifications and record speaks for itself. However, I do not have a so called "acquired Title" as Circular 230 deems necessary. Just because one obtains an "acquired Title" of Attorney, CPA or Enrolled Agent does not give that individual the expertise or experience to represent the taxpayer. It does not mean those who have the "acquired Title" are "qualified" to perform the duties for the taxpayer. An article entitled "What is a CPA Anyway" written by six (6) CPA's in 1984 in a Small Business Tax Newsletter states:

1) "Only "10% to 15%" of the CPA's are "true tax specialists" in the sense that they spend more than half their time involved in tax related matters."

2) As it pertains to Attorneys the Newsletter stated: "Unless an Attorney really specializes in taxes, avoid using him or her for any tax-related work. Keeping up with the tax law is a full time job."

Eligibility according to Circular 230 and Publication 947 (Practice Before the IRS and Power of Attorney) is defined as:

1) "Any" Attorney (who is a member in good standing with the bar of the highest court of any state) or CPA (who is duly qualified to practice as a CPA) and both who are not currently under suspension or disbarment from practice before the IRS may practice before the IRS.

2) "Any" Enrolled Agent in "active" status may practice before the IRS.

3) Even though an Attorney who is a "member" in "good standing" or a CPA who is duly "qualified" to practice as a CPA or an Enrolled Agent who has "active status" does not mean they are "qualified" to practice as a "tax" accountant.

Therefore the Internal Revenue Service's "only requirement" to "practice" before the Internal Revenue Service, it appears, is that an individual needs to be a "member in good standing," (Attorney) "qualified to practice as a CPA" or "pass a test" to become "active." (Enrolled Agent) "Expertise" and "experience" in the tax area is not being taken into consideration as a "pertinent requirement" factor for "qualification" purposes.

In my attempt to comply with the Rules and Regulations of Circular 230:

1) I sat for the Enrolled Agents Examination in late 1989, passed the Individual and Law portions but missed the partnerships and corporations by 2 points.

2) In January, 1990 I had been accepted to attend law school at the University of Montana in Missoula through Martin Burke who was Dean of the Law School at that time.

3) In February, 1990 I was injured in a serious car accident, experienced out of body, incurred a closed head injury and was unable to continue with my law degree.

4) I attempted to take the remaining two (2) parts of the Enrolled Agents Examination in Helena in 1991 but the stress on the brain caused me to go into paralysis and I was unable to complete the test. The Internal Revenue Service arranged for someone to drive me back to Missoula.

5) During my Senate Finance Committee case from Ohio Specialist Moecia with the Internal Revenue Service informed me there is a "General Rule within" the Internal Revenue Service Code through "disclosure" that the Internal Revenue Service "cannot bar anyone" from representing the taxpayer if the taxpayer so chooses that person. It is in "violation of taxpayers rights" if the Internal Revenue Service has the authority to "limit" who can represent the taxpayer.

6) Moecia suggested I contact you and the Senate Finance Committee, request I be "grand fathered" in with the authority to practice as I have in the past due to my expertise even though I do not have the "Title."

a) There was something called a "Treasury Card" which was issued in the past for these such exceptions. To Max, the Senate Finance Committee and others referred to below, I am requesting you consider my **"expertise"** and **"experience,"** my successful experiences representing taxpayers before the Internal Revenue Service for the past 33+ years and **"grandfather"** me so I may continue representing my clients before the Internal Revenue Service at the audit and collection level in the manner I have been accustomed to.

I) Consideration should also be given to:

a) My successful passing two (2) parts of the Enrolled Agents Examination and missing the other two (2) parts by 2 questions.

b) Complying with the continuing education courses required of CPA's and Enrolled Agents which I have adhered to for the past 33+ years. I anxiously await your response.

Thank you.

Respectfully,

Natalie L Carlson

From: Linda Metzger
Sent: Thursday, August 27, 2009
Subject: Notice 2009-60

IRS Counsel:

I am a self employed bookkeeper/tax preparer in NYS and welcome some kind of regulation/monitoring of tax preparers. It was rather amazing to me when I decided to enter this field that some kind of licensing etc did not exist. I have studied accounting/bookkeeping/tax preparation at a local community college and also received training through H & R Block for 2 years. Since I do not have a degree I would welcome some kind of licensing that would add some credibility and professionalism to my practice. I have been preparing taxes for approximately 10 years and maintain an office in a small upstate town. I prepare individual, self-employed (Schedule C) returns. I have turned away inquiries to prepare taxes for clients if I do not feel I have the training/expertise to do them. I have sometimes consulted with an accountant when I have questions. I prepare approximately 125 returns a year and see growth in my practice each year. I feel I am also providing a service to the people in this area who prefer to work with someone they know and trust. My concern, however, and the reason I have never taken the Enrolled Preparers testing is that I would like to keep my practice as it is. I have all the business I need/want working with individual returns which I feel confident in being able to do correctly. For me to take on corporations, large partnerships etc has never been my intention. I hope that whatever regulations come from this study take this into consideration.

There are many small tax practitioners that do serve the public in their capacity as preparers of individual returns and do it quite well. Can there be levels of licenses to reflect that variety of services? Just as not all accountants are CPA's not all tax preparers should necessarily be required to have knowledge/expertise in all types of returns. I am very willing to take classes/tests for certification/licensing etc but hope that I do not have to expand my skills beyond that which I enjoy doing and hope to continue doing for many years to come.

Linda Metzger
Naples, NY

From: COSMO OCCHIOGROSSO
Sent: Thursday, August 27, 2009
Subject: Notice 2009-60

To whom it may concern:

I, as a professional tax preparer, have been reading many of the publications on this issue with great concern. Surely our biggest concern is opening ourselves up to liability in the process of "registering" or otherwise qualifying our capabilities. I have given this much thought and have the following comments:

1. The government should eliminate, by legislation, the lending and other conveniences offered by certain tax preparers where the preparer has an incentive to inflate tax refunds which would enhance the fees that the preparer leaves the table with. As in the accounting community, this, at the very least, gives the appearance of impropriety. In many cases, this actually contributes to the TAX GAP. Many of us who have seen a broader scope of tax returns, believe these dime store practices to be the equivalent of predatory lending, preying on the lower income individuals. It also suggests that our fees are driven by the amount of the refund we can get for the taxpayer. We, as professionals, sell time. We do not sell refunds or charge a percentage of the refunds. In many cases, our clients end up owing a small amount to the governments at the end of their accounting cycle due to proper tax planning.

2. If the Service wishes to test our capabilities, it should create an examination process that tests based on the following criteria: make a selection of 10,000 tax returns at random from the Service's system, create a list of tax issues, ie publically traded partnerships, mixed use property (residence/rental), correct handling of 010 issues, correct handling of employee stock option exercises, etc. that occur in most of the returns selected. Testing should be done on those issues that occur in at least 65% of the returns selected. In addition, provide some complex issues for testing, ie Sec 1031 exchanges and see if the preparer knows where to look to get the correct guidance for tax treatment. No one knows the entire tax code, but knowing where to look for answers is the key to correct compliance.

3. Closely monitor tax returns prepared by part-time preparers, such as the chain store preparers. A 20 hour course in no way prepares an individual to navigate the most complex tax code in the world. It is my experience that the products that come from these 'home depots' of tax preparation contribute the most to the tax gap, while at the same time prey on the least educated sector of our society. Ideally, we would like to see these stores filled with real professionals and not 3 month tax preparers. On this same note, _ education requirements are a must. Everyone writing the tax law has a post-secondary education; therefore, everyone applying the law should have one also.

4. CPE must be a requirement for any person preparing a tax return. No ifs ands or butts. If you don't know the current law, you might as well have a 6 year old preparing a tax return.

5. The service needs to impose some kind of restrictions or counter advertising on such products as turbo tax, and tax simple. Putting a tax program in the hands of the average taxpayer is the equivalent of permitting home nuclear reactors. Its just going to blow up and hurt alot of people. I, personally, have had people prepare their own returns on these products and asked me to "look it over" for a fee. I have yet to see a return where the taxpayer has not shot him/her self in the foot using this method. In almost every case, the taxpayer has overstated their tax liability. Since this process is to fulfill an obligation as a US citizen, I feel the Government has a responsibility to the taxpayers to thwart false advertising. We, in the community, know the truth, but we do not have the resources to counter-advertise these products.

6. One thing that the Service could do to help us and the Service is to make available the CP2000 data you collect to us during tax preparation. We could eliminate thousands of pieces of correspondence by matching data while in preparation. If this is not on the table at the Service, it definately should be an endeavour. The e-services portal could provide us with this valued information in the preparation process thereby eliminating mismatches. CP-2000s represent 85% of the correspondence we receive from the Service.

Respectfully submitted,
COSMO OCCHIOGROSSO - President
CJO Consulting, LTO

From: Carol C. Markman, CPA
Sent: Thursday, August 27, 2009
Subject: Notice 2009-60

I support the registration of all paid tax return preparers, both signing and non-signing, including those currently under the jurisdiction of the IRS Office of Professional Responsibility ("OPR"). I believe that the IRS must first develop a single database of all paid tax return preparers and I recommend that a PTIN be required on all paid preparer tax returns. I believe that all registered return preparers pay a nominal annual registration fee. All preparers including those who work for the national tax preparation firms should be individually registered. I believe that all preparers need to obtain 24 continuing professional education ("CPE") credits each year in educational programs in taxation approved by National Association of State Boards of Accountancy, the IRS or any other organization approved by the IRS. Preparers who have to register and pay a fee to their home state and preparers who are licensed in their home state should be required to register with the IRS but should be exempt from the fee. Enrolled agents who already pay a fee to the IRS should have to have a PTIN but should not have to pay an additional fee. While licensing of all paid preparers not currently covered by Circular 230 is desirable, I believe that burden of initiating, and monitoring and enforcing an IRS licensing program will be so resource intensive as to divert too many IRS resources. It will also take a significant amount of time to implement because of the need to evaluate and verify credentials and education and to test all of the non-Circular 230 people. I think it will be confusing to the public for there to be two IRS credentials. If a preparer wants to have an IRS "license" to prepare tax returns, they should become Enrolled Agents. I believe that the jurisdiction of OPR should be extended to all paid preparers. Currently OPR receives taxpayer complaints regarding all paid preparers but they cannot do anything about the non-Circular 230 preparers, which is very frustrating to the referring taxpayer. I believe that all paid preparers would have to certify on an annual basis that they are current in their personal and business tax filings (including payroll taxes). I believe that the act of registering as a paid preparer should authorize the IRS to make random checks of paid preparer's tax filings. Preparers who self-identify as preparer of more than ten EITC tax returns should be required to include CPE instruction in EITC requirements and the related due diligence. I believe that before a person can register as a paid preparer, they must have obtained 24 CPE credits in taxation in the prior year. Increases in preparer penalties should not be part of the new regulations as there are more than enough penalties, which are rarely imposed. As you consider tax preparer standards, I urge you to consider the tax software that is used to prepare many tax returns. Most of the tax preparation software that is used to self-prepare tax returns contains many questions, which the taxpayer must answer. Some paid preparers also use this software as it is inexpensive. Often, if the taxpayer does not answer a question, the software defaults to an answer, which may not be the correct answer for this taxpayer. This is especially true with EITC tax returns. This practice can lead to errors on the tax return as the return preparer is not answering the questions. This became clear when the IRS examined tax returns where the taxpayer should have indicated that they had foreign bank accounts and should have filed the necessary reports. Therefore, I believe that the software company is acting as a tax return preparer and should be subject to preparer penalties if the defaults lead to errors on tax returns. I am a CPA with over thirty years of experience preparing tax returns. I am currently a partner in a local CPA firm. I currently serve as a member of the Internal Revenue Service Advisory Council and chaired my local IRS liaison committee for three years. I am a past president of the National Conference of CPA Practitioners and chaired its tax committee for three years.

Carol Markman

Sent: Thursday, August 27, 2009
Subject: Re: Preparer Regulations

Please be reminded that many, many small businesses consist of great tax preparers that have many years of experience without formal letters behind their names. We do maintain the same ethics & skill levels, so please recognize that adding letters behind their names (with required testing) may cause many of us to have to shut our doors. So please note that standards can be monitored without formal testing for "certifications" as we all know that those are JUST letters in many cases & do NOT assure ethics & standards!!!!!!!!!!

Thank You,
Ellen Vosler

From: vince
Sent: Thursday, August 27, 2009
Subject: tax return preparers

Only CPAs and Enrolled Agents should be allowed to prepare and sign returns that are not their own.

From: MJ Lee
Sent: Thursday, August 27, 2009
Subject: TAP member comment on "IRS return preparer review"

Hi Rebecca Johnson,

Last week you spoke to the TAP joint committee and said that individual TAP members could send you individual input in parallel with the official TAP recommendation to Commissioner Shulman.

Following are my suggestions to help ensure that preparers meet uniform and ethical stands of conduct.

1. Tax preparation software providers must be regulated. An increasing number of taxpayers are filing their tax returns online, using tax software or a tax website in lieu of a tax preparer. Today people are used to clicking through websites quickly while purchasing items. So when they use a tax website, they do not realize that by specifying they want their refund immediately, that they are incurring an refund anticipation loan (RAL) at a very high interest rate. As an example, last year my daughter's boyfriend waited until April-14 to file his tax return via Turbotax Online. He had a simple return but his total income was >\$100,000. He told me he got his refund immediately, and I told him he had just made a big payment on an RAL. He had to go back and read through all the paperwork to realize this had happened. The problem with online tax preparation is that it is even easier now for people to make quick decisions about their tax refunds without understanding the implications. No one is standing over their shoulder saying, are you sure you want to do that? This is why the IRS needs to apply very strict standards of how people are charged for tax and loan services, and make sure that the online taxpayer is fully informed whenever he is paying money that is not going to the IRS.

2. Tax practitioner error rates should be published. Sites like Amazon and Epinions allow people to rate and review products and retailers. Tax practitioners need a similar review capability. However, since most people stick with a tax preparer once they find one, it will be hard for them to compare. Therefore, the IRS needs to provide its own ratings in the form of statistics, such as how often a tax preparer's returns are audited or how often their clients receive a CP2000.

3. What is a good or bad tax practitioner?

The IRS could help taxpayers by explaining what they should look for in a tax practitioner. E.g., how much education and annual training should a tax preparer have? How do you know if a tax preparer is good or bad? If the IRS can't explain this to taxpayers, then how are they supposed to make the decision?

Thank you for your time in reviewing these comments.

Regards,
Merijane Lee

From: Alex Lopez
Sent: Friday, August 28, 2009
Subject: Tax Returns

The most fair way to get the tax system to work is have a value added tax and do away with the income tax. This way everyone that tries to cheat will not be able to do it. Of course this will never be done as too many people at IRS will lose their little Kingdom. Other option would be to do like Sweden. Sent the tax return already fill out and the individual will just sign their name and send it back. The general public does not know how to do their returns and have to pay a high price for a tax preparer to prepare their tax return. The tax preparer makes @\$8.00 or \$9. If you have experience you will get \$10.00. So who is getting all the money? The tax company. This is the biggest rip off I see. Too many people file head of house when they are married and living together. The spouse files head of house with a different address and the wife with another address. Too much fraud is being done on the returns. This is what I see when I do returns. I am not an auditor and can only advise the individual of the tax rules and regulations. I have refused to do retunes when it is very blatant that the individuals is not telling me the truth. I still think the VAT tax is the best way to go.

From: Lee Knose
Sent: Friday, August 28, 2009
Subject: Notice 2009-60

Gentlemen,

I have worked as a CPA tax preparer since 1976. I spent 13 years of that time in the tax department of one of the largest CPA firms. Over those years I have watched the evolution of the Income Tax Code and Regulations and the effects on my clients and the community. My practice has been focused on upper income, mostly compliant, taxpayers. What I have experienced over those years is as follows. Well trained CPA's find themselves limiting taxpayer positions to make them reasonable and compliant with rules and regulations. They tend to assist in proper application of the Code. My unsupervised competitors have put grand ideas in the taxpaying public's head about claiming unreasonable deductions. I know that there are scam promoters (sometimes major firms) who market "Strategies" using unreasonable positions that defeat the revenue collection process and that are ultimately to the detriment of their clients. Those people need regulation! They do not comprise the majority of the professional tax preparer community. I applaud regulation of untrained and unscrupulous tax preparers and advisors. My concern is that the proposed regulation may, like many tax regulations before it, be ineffectual and complex. If so it will further reduce the ability of the existing self assessed income tax system to function as a tax collection tool. The points I hope you will consider are as follows.

Our income tax system is a self-assessed system. Taxpayers with anything other than simple filings require assistance with the interpretation and implementation of the tax rules and regulations. The IRS cannot possibly provide that assistance. Taxpayers hire representatives to promote their interest and assist them with their tax filings and planning. The system works because they are hiring their own representatives. Proposed regulations may be designed to turn those "Taxpayer Representatives" into "IRS Agents". That is to say that the regulations may be so restrictive on preparers that they cannot take return filing positions that the taxpayer themselves could take! The existing tax preparer penalties are an example of that situation because the law, as enacted, imposes more severe restrictions on preparers than the taxpayers themselves! At the point where rules make taxpayer representatives defacto agents of the Internal Revenue Service taxpayers will no longer see the benefit of paying a preparer to assist them with filing. WHO THEN WILL PROVIDE THE ASSISTANCE WITH COMPLIANCE that the IRS clearly cannot provide?

I suspect that would be one more step toward a collapse of the self assessments system!

I recognize that it is time to take some steps to improve compliance. To that end my suggestions are as follows.

1. Impose regulations on preparers and advisors that are NOT currently part of a self-regulating professional community to put them on even ground with those who do self regulate.
 2. Revise existing preparer rules and implement new rules that are designed to remove the "Cowboys" from the preparer/advisor community.
 3. Do not attempt to convert tax advisors/preparers into agents of the government.
- Ultimately you will find that overall compliance with tax rules is enhanced by the professional tax preparer community. Do not reduce the professional's value in the eyes of the taxpaying public. That will ultimately reduce compliance when taxpayers attempt to deal with complex rules without assistance.

Thank you for your consideration.
Lee Knose, CPA

From: Kathy Hartle
Sent: Friday, August 28, 2009
Subject: Notice 2009-60

What types of individuals currently work as tax return preparers? I, as an Enrolled Agent, surround myself with professionals in organizations who have the same interests as myself. I belong to the National Association of Enrolled Agents, Washington State Society of Enrolled Agents, and Washington State Tax Consultants. The value of belonging to these organizations is that they provide education and ensure that we all maintain a minimum amount of current education in order to belong to the membership. They encourage preparers of all types to promote professionalism and maintain a high ethical standard. There is no required regulation and oversight for the average person who chooses to hang out his sign and prepare taxes for a living. They don't even know about the rules, the circular 230, the preparer regulations. And, they are not at risk because they have no license to lose. There is a minimum level of education and training necessary to provide tax return preparation services. It should be done at the vocational school level, so that it is affordable, but that people must pass a course that is at least as stringent as the H & R Block course was. There should be different levels of tax preparers, level one for individual 1040s only, level 2 for business preparers with bookkeeping knowledge, and level 3 with a combination of both. Then they should be required to have at least 30 additional hours of education each year to ensure that they are aware of current events. This should, can and does happen through non-profit organizations. There needs to be a change in due dates for returns to be completed. It is impossible to prepare both individual and business returns at the same time and get the business returns completed by March 15, when taxpayers are demanding quick service to get their refunds as soon as possible. Business returns take more time and need more consideration. And preparers need to have education in all types of returns, not just specialize in business or individual. Preparers also need a minimum amount of bookkeeping knowledge so that they know how it all fits together. I believe that the regulations need to focus on the unlicensed, un-enrolled preparers. The Enrolled Agents, CPAs, licensed attorneys, etc. are already following the rules in effect. Instead of being threatened with penalties and sanctions on a yearly basis as they try harder and harder to take care of more clients in less time, they should be honored for the good job they are doing in servicing the industry, the taxpayers and IRS.

Kathy Hartle, EA
Accounting & Tax Services, Inc.

From: Paula.O'Brien
Sent: Friday, August 28, 2009
Subject: Notice 2009-60, NYS Consumer Protection Board Submission
Attachments: IRS Taxpreparer Comments August 2009.pdf
Attached please find the New York State Consumer Protection Board comment submission in response to Notice 2009-60.

August 27, 2009

Richard S. Goldstein

Submitted electronically via Notice.Comments([i](mailto:irs@irs.counsel.trcas.gov))[irs.counsel.trcas.gov](mailto:irs@irs.counsel.trcas.gov)

Re: Standards of Conduct for the Tax Return Preparer Community and Increased Taxpayer Compliance, (Notice 2009-60).

Dear Mr. Goldstein:

On behalf of the New York State Consumer Protection Board (CPB), I am pleased to submit comments on the Internal Revenue Service's (IRS) review of issues concerning tax return preparers. The CPB was established in 1970 pursuant to New York Executive Law Sections 552 and 553. It is the mission of the CPB to protect, educate, and represent consumers. The CPB is dedicated to policy development, consumer complaint assistance, and the creation of informational and educational outreach programs to benefit consumers across New York State. The CPB responds to consumer complaints and inquires, assisting on average 4,500 consumers each month. In response to the surge of information and testimonials in recent years highlighting the practices of dishonest tax preparers, the CPB maintains an active role in mitigating consumer complaints against them, and educating consumers to beware of certain tactics employed by unscrupulous tax preparers. During the 2008 and 2009 tax seasons, the CPB partnered with the New York State Department of Taxation and Finance (NYS DTF) to advise consumers on steps to take prior to securing tax preparation services. This information included (1) encouraging qualified taxpayers to access Voluntary Income Tax Assistance (VITA) sites; (2) obtaining references from paid preparer's clients; (3) inquiring in advance regarding service fees; (4) avoiding preparers who guarantee a refund or base their fees on a percentage of the refund; (5) researching the preparer's credentials through the Better Business Bureau, State Bar Association or the State Board of Education, Office of Professions, Board of Public Accountancy; and, (6) inquiring about the information privacy or security practices followed by the tax preparer. In New York, anyone, regardless of education, experience, training, or even criminal history, can call themselves a tax preparer. Due to a lack of established legal and professional standards, consumers continue to fall victim to unscrupulous tax preparers, who prepare fraudulent returns to create or inflate a consumer's refund, and often base their service fees on such inflated refunds. Subsequently, when the consumer is held liable for the fraudulent return, the tax preparer often cannot be found. Thus, the frequently unsuspecting consumer is left paying the original tax due, plus any penalties and interest accrued. Due to the lack of established legal and professional standards, the tax preparer is regularly held harmless under the terms of the tax preparer generated service contract and free to continue receiving compensation for such "services." In addition, tax preparers are often the conduit for enticing consumers into obtaining high-interest, quick refund anticipation loans (RALs). Unfortunately, the majority of aggrieved consumers who fall prey to such tax preparers are those who can least afford it, the low and middle-income taxpayer. Accordingly, in 2008, Governor David A. Paterson signed into law the "Consumer Bill of Rights Regarding Tax Preparers," which requires tax preparers to provide consumers with a copy of the Bill of Rights prior to providing any tax preparation or RAL services. Then, this year, the Governor enacted a new law requiring all tax preparers, who are not otherwise regulated as licensed attorneys or accountants, to register with the NYSDTF, and, also calling upon the CPB to facilitate the dissemination of the "Consumer Bill of Rights Regarding Tax Preparers" and collaborating with the NYSDTF in responding to taxpayer complaints. While these new measures demonstrate great strides in protecting taxpaying consumers in New York, more must be done nationally to provide a structure of minimum requirements for tax preparers. Thus, the CPB echoes the sentiments of the NYSDTF and asserts that the IRS should register all tax preparers, including CPAs and attorneys. Additionally, national minimum competency standards should be developed. All such preparer information, including education and disciplinary history, should be made publicly available to consumers via the Internet. In addition, as part of such registration process, tax preparers should be subject to a code of ethics. A tax preparer code of ethics must reflect the fiduciary nature of the services being provided. The CPB recommends drawing from the American Bar Association

Model Rules of Professional Responsibility and the American Institute of Certified Public Accountants Code of Professional Conduct, which guide the professional conduct of attorneys and accountants. Thus, the code should require tax preparers to provide competent service, exhibit professionalism, honesty, integrity and protect the privacy of their clients, whom entrust tax preparers with their most personal financial and private identifying information. The CPB has found that the "Consumer Bill of Rights Regarding Tax Preparers" is an excellent, quick resource and educational tool for consumers to be afforded in advance of any tax preparation engagement. Thus, the CPB recommends a Consumer Bill of Rights, advising consumers of their rights, be provided to all consumers throughout the nation in advance of any tax preparation engagement. Since many predatory tax preparers choose to establish their business operations in low- income and minority communities, the CPB encourages making any IRS consumer publications also available in other languages including Spanish. Likewise, any regulatory efforts implemented should include a requirement that a tax preparer service contract be memorialized in a written instrument utilizing the same language in which the contract was negotiated. Consumers who are not proficient in English remain vulnerable prey to nefarious service providers who align themselves with consumers by speaking and negotiating a deal in their native tongue. Unfortunately, the service provider may then complete the deal with a written instrument in English for the consumer to sign. Not only is the written instrument difficult for this consumer to understand, but often it is inconsistent with the negotiated terms. The consumer is then left defenseless to retaliate against such bait-and-switch tactics. All consumers, regardless of their English reading capacity, must be afforded protection from predatory service providers. Finally, the CPB buttresses the recommendation of the NYSDTF and encourages the IRS to embark on a national, multi-lingual, public education campaign advising consumers on the importance of dealing with a reputable tax preparer.

Thank you for your consideration of my comments.

Sincerely,
Mindy A. Bockstein,
Chairperson and Executive Director

From: DAUFELDT, JAMES
Sent: Friday, August 28, 2009
Subject: Notice 2009-60

Should any special regulatory provisions be made for individuals who are already tax return prepares, licensed attorneys, CPAs, enrolled agents, or software providers? This relates to licensed attorneys and CPAs. Since these two groups are already working under Ethics rules and guidelines required by their respective licensing boards, I do not believe any other requirements are necessary.

Sincerely,
JAMES C. DAUFELDT

From: Ruth Ann Michnay
Sent: Friday, August 28, 2009
Subject: Notice 2009-60

TO: Internal Revenue Service

RE: Comments - Notice 2009-60: Standards of Conduct for the Tax Return Preparer
Community and Increased Taxpayer Compliance

The Twin Cities Tax Professional Discussion Group started August 2007. The current email lists consists of 65 tax practitioners (CPAs, EAs, and unlicensed) from sole proprietor to mid-size firms. The discussion group meets monthly to discuss tax issues and tax practice policies. Notice 2009-60 was emailed to the practitioners requesting comments. The comments are listed below.

1. Everyone should be under Circular 230...all should be following the "best practices."
2. If *you* are going to register tax preparers, anyone subject to registration should also be subject to Circular 230. This provides an effective means of enforcement. I see a lack of enforcement as a big problem. TO give taxpayers additional confidence in a registered preparer without a means of "weeding out" the bad preparers will provide a large disservice to the taxpayers.... Also, for bad preparers it is not a problem of too little education, it is a problem off too much education. The bad preparers are preparing bad returns due to their understanding of the tax system. An example would be claiming earned income credits by creating phantom earned income on a return. It is only an educated person that understands *you* receive a greater refund with greater income.
3. The enrolled agent exam should be the minimum requirement for tax preparation If *you* have questions please contact me.

Thank *you* for the opportunity to respond.

SUBJECT: Notice 2009-60

- The tax return preparer community can help increase taxpayer compliance and ensure that tax return preparers meet both uniform and high ethical standards of conduct through regulation of tax preparers: Persons offering individual tax preparation service must be registered with the IRS and/or licensed by their state as a tax return preparer.

RATIONALE: Anyone can buy tax software; advertise as a tax preparer taking advantage of the opportunity and charging the public to prepare tax returns with no qualifications because there are no licensing requirements, regulations, or supervision to be held accountable.

Registration of tax preparers will eliminate the unscrupulous tax return preparers for fear of having to register with the IRS.

Registration and regulation will enhance the professionalism of return preparers and recognize the number of unlicensed return preparers that are conscientious professionals knowledgeable of the tax law, regulations and qualifications equivalent to licensed tax professionals.

Registration would enable clients to identify preparers that meet the standards set to be qualified as a professional preparer.

- Circular 230 should be amended to include regulations and standards for unlicensed tax preparer. No new regulation should be developed. Extend the responsibilities of the Office of Professional Responsibility (OPR) of the IRS to include unlicensed tax return preparers and all tax practitioners with certification and/or an identification number to be used in all interactions with the Service in order for the IRS to track such professionals. The tax return preparer will be responsible for any fees imposed. OPR will extend Circular 230 privileges to states that require tax preparers to be licensed. These licensed preparers will be subject to regulation and supervision by the state and must meet continuing education, professional standards and other requirements in order to maintain their practice rights. OPR will be responsible and provide oversight for tax preparers of non licensing states.

- Possible solutions for issues associated with the EITC and RAls is to regulate tax preparers and IRS prohibits RAl on publicly funded benefits (Refunds) paid for low-income taxpayers associated with the EITC programs.

RATIONALE: There are a large number of preparers that prey on and provide tax service and RAL products only to low-income taxpayers eligible for, or candidates for larger refunds because of the EITC. These taxpayers are not concerned about or interested in the fees of the RAL because for them this is free money, nothing out of their pocket. Non EITC taxpayers are more conscious and decisive about the cost associated with the RAl. Registration of tax preparers will most likely remove the preparers that prey on and provide

tax service only to low-income taxpayers. This can be further enhancing if IRS prohibit and disallow RAl from funds that are publicly funded. This should not be a problem for IRS because the government not the taxpayer absorbs this cost.

- Regulatory provisions for tax preparers, employed by large national tax chains or tax return professional organizations, that signs off on their prepared returns are subject to, and not excluded from, the regulation of tax preparer and must be registered as a tax preparer to maintain employment. New employees must be a registered tax preparer as a condition for employment. They will be regulated by OPR and subject to Circular 230. Regulatory provisions already exist for licensed attorneys, CPA's, EA's, and software providers.

- Service and outreach, and the cost for these services, is the sole responsibility of the tax return preparers. There are several professional tax associations for preparers that will put them on the right path.

- Service and outreach for taxpayers are the sole responsibility of the IRS. My name is Brenda Yates and my comments are based on my experience as an unlicensed tax preparer for 24 consecutive years. 13 of those years were with a national tax chain. I recognized there are no regulatory provisions or guidance for tax preparers but I do not use that as an excuse, 50 I use Circular 230, a member of NSTP, annual attendance at the IRS Tax Forum, State seminars, and continuing education in tax matters in order to maintain high professional standards, tax compliance, and my responsibilities as a tax preparers.

Sincerely,
Brenda Yates

CCPA:LPD:PR
(Notice 2009-60)

Subject: Notice 2009-60

NSTP COMMENTS ON IRS TAX RETURN PREPARER INITIATIVE

Introduction

Our organization, the National Society of Tax Professionals (NSTP), is comprised of tax practitioners with varying types of professional credentials and different levels of practice. Thus, we are uniquely qualified to offer our membership's views on Treasury's proposal for a comprehensive plan regulating tax return preparers. We have been tracking the comments received by the IRS thus far and want to focus our comments on the specific proposals set forth by other participants in this process.

About NSTP

The National Society of Tax Professionals (NSTP) is a nonprofit organization founded in 1985 and is made up of approximately 5000 members who are certified public accountants, attorneys, enrolled agents, financial planners, and other tax professionals. About one-half of our members are unenrolled preparers. NSTP supports the tax professional community with educational programs designed to enhance professional ability and knowledge. Every NSTP Member is required to abide by the NSTP Code of Professional Conduct which is designed to promote high standards of competence and ethics within the profession and to promote mutual respect, cooperation and communication between the Internal Revenue Service and tax professionals.

Summary of Recommendations

The tax system should encourage the use of reasonably priced tax preparation services, especially by less sophisticated taxpayers who have difficulty filing their own returns. The IRS should carefully target any new regulatory scheme at the known abuses, while being careful not to overburden the honest, ethical tax preparers who currently practice with a high degree of professionalism.

With these principles in mind, we contend that any new regulatory scheme for tax professionals should be based on the following basic principles:

- All paid preparers should be registered with the IRS and should be assigned a preparer tax identification number (PTIN) which they are required to use on all returns.
- All paid preparers should be required to complete a minimum number of hours annually of continuing professional education including 2 hours of ethics training.
- Unenrolled tax preparers should not be subject to an entry examination to qualify for preparing returns. For this segment of the practitioner community, testing does not demonstrate actual hands-on ability and is not a fair measure of expertise.
- Many unenrolled practitioners are highly competent and serve their clients well. If they are forbidden to practice going forward, the existing enrolled community could not absorb the overwhelming number of new clients. Tax preparation fees would go up. Many taxpayers could be underserved, and the IRS workload and staffing expense would also increase dramatically due to the overflow.
- The IRS should develop a media campaign to educate the public that a return preparer who does not sign the tax return is breaking the law. We believe it is the "self prepared" returns from unscrupulous tax preparers which account for much of the earned income tax credit (EITC) fraud and other intentionally erroneous tax returns. The IRS should target its enforcement measures at this type of abuse. Our views on the specific proposals under consideration by the IRS follow.

Competency Exams

At the July 30th IRS return preparer forum, representatives of several consumer groups including the AARP, the National Community Tax Coalition, and the Center for Budget and Policy Priorities advocated examinations as well as continuing education, arguing that the public would better understand a tax preparer's credentials if testing were required. While we understand their frustration with misconduct by some tax preparers, a testing program will not address the type of abuses these groups are seeking to prevent primarily, unsigned, erroneous returns and refund anticipation loans. In fact, burdensome and expensive testing could actually harm the populations served by these very groups. Testing will be a barrier to entry for unenrolled preparers, many of whom now work with underserved populations in rural areas and with lower-income taxpayers. If testing is required, what do you do with the many thousands of tax preparers who have been in practice for years? Administratively, it would be difficult, if not impossible, to test them all at once. Further, it would be unnecessary for many who have practiced for years and have developed an expertise. Frank Degen of the National Association of Enrolled Agents (NAEA) has

advocated enrollment-type testing for all unenrolled preparers. Jim Nolen of the National Society of Accountants (NSA) also has advocated that all preparers take some type of qualifying examination to obtain certification such as that now offered by the Accreditation Council for Accountancy and Taxation (ACAn, which is affiliated with NSA. We believe these groups do a good job serving their particular membership. However, it does not escape our notice that the positions they are advocating are self-serving and would greatly extend their reach. Imposing NAEA and NSA certifications on the entire unenrolled industry would be a disservice to taxpayers, making tax preparation services more expensive and less accessible to the vast majority of the public who do not have complicated tax returns but still need help in preparing them. Adopting the certifications of either of these groups also would concentrate oversight in the hands of a few private organizations, which we believe is inappropriate.

Waiving In With No Exam

While we strongly oppose testing, we realize that this option is under consideration by the IRS. Thus, we want to go on record to state that if testing is adopted, there must be a provision for grandfathering in experienced tax preparers. We suggest the model used by some State Bar Associations for "waiving in" out-of-state professionals. That is, allow a tax preparer to waive in to the program without testing if they can show they have been practicing for 3 to 5 years and have been regularly signing tax returns during that time. A similar rule already is in place for revenue agents who have worked for the IRS for 5 years. Circular 230 allows them to obtain the Enrolled Agent credential without testing. In short, if the IRS implements a testing program, there should be some method of becoming grandfathered in based on a preparer's demonstrated professional experience.

Alternatives to Testing

PTIN Registration

Practitioner registration should form the cornerstone of the new regulatory scheme. All practitioners should be required to have a unique preparer tax identification number (pTIN) which they must use on all returns. This requirement needs to be enforced by stiff penalties on preparers who prepare a return for any sort of remuneration without signing and inserting a PTIN. Some commenters have suggested an additional penalty for taxpayers who pay a preparer who does not sign the return. We believe a taxpayer penalty would be unenforceable and would prevent taxpayers from turning in noncomplying preparers. Another option would be to have a series of questions for the taxpayer with regard to who prepared the return. If the taxpayer has to clearly indicate on the return that a paid preparer was not used, it will make the taxpayer more aware that nonsigning preparers are breaking the law. More importantly, a vigorous public relations campaign should be undertaken by the IRS to convince taxpayers of the dangers to them of submitting an unsigned preparer return.

Track Performance by PTIN

Use of a standard PTIN by all preparers will enable the IRS to develop metrics to track a preparer's returns for accuracy. The IRS already statistically analyzes the error rates for taxpayers and paid preparers on return submissions. This program could be expanded to identify practitioners whose returns exhibit a high error rate, a high reversal rate, or any fraudulent positions. Depending on the type of return problems, the practitioner could then be required to take more training courses or could be suspended from practice.

Continuing Professional Education

Circular 230 sets forth continuing education rules for enrolled agents which require that they take approximately 16 hours of courses per year. Most State Bar Associations require at least 12 hours of continuing legal education each year. State CPA societies generally require upwards of 30 hours of continuing professional education each year. We are in favor of requiring a minimum number of continuing education hours in taxation each year for unenrolled preparers, including at least two hours in ethics. It seems appropriate that the minimum be set at 12 hours per year given the limited type of practice engaged in by unenrolled preparers. These preparers could take the courses from any qualifying sponsor as defined in current §10.6(f) of Circular 230. The NSTP currently offers many qualifying courses that are appropriate for the type of practice engaged in by our membership. Thus, we encourage the IRS to allow a wide variety of professional organizations to apply and qualify for course certification.

Office of Professional Responsibility and Circular 230

We do not object to giving the IRS Office of Professional Responsibility (OPR) broader authority to oversee all tax professionals, including unenrolled preparers, to enforce their use of the PTIN and to impose sanctions or suspend from practice those persons exhibiting gross incompetence or fraudulent behavior. However, we do not believe that unenrolled preparers should be subject to all of the very

complex and broad rules of Circular 230. Much of Circular 230 is concerned with standards for the issuance of tax opinions, including "covered opinions" and "reliance opinions", which clearly do not apply to the type of services provided by unenrolled preparers. As long as unenrolled preparers continue to be restricted in their practice and subject to the Code's preparer penalties, extension of the complete set of Circular 230 rules to them is overkill. Rather, the IRS could develop a special subset of Circular 230 rules for unenrolled preparers that includes PTIN registration, ethical standards, and continuing education requirements. Unenrolled preparers could be subject to the existing enforcement procedures of Circular 230 as well, and OPR would be responsible for sanctioning noncompliant preparers.

Other Observations

We essentially agree with the measures advocated by the National Association of Tax Preparers regarding registration of preparers, continuing education requirements, identification of problem preparers, and enforcement measures designed to encourage taxpayers to disclose who prepared their returns. The NATP, much like our organization, is made up of tax professionals with a variety of backgrounds and professional credentials. Thus, our two organizations seek a balanced approach to preparer regulation that recognizes the different segments of the preparer market and the particular type of taxpayer served by each. One size does not fit all in this profession. We find particularly persuasive the comments submitted by Robert Wunderle of La Posada Tax Clinic in Twin Falls, Idaho. He offers several real world examples of the exact type of abuses the IRS and consumer groups are trying to address. He clearly makes the point that enforcement measures must target those preparers who are unlikely to register or comply with any new testing, education, or ethical standards.

Conclusion

In conclusion, we would like to reiterate the major objectives that we would like to see implemented with any preparer changes:

- Maintain reasonable pricing, especially for less sophisticated taxpayers or those unable to prepare their own returns.
- Any regulatory changes should be targeted at known abuses.
- Current practitioners should not be overburdened by changeover requirements; IRS Office of Professional Responsibility should control and oversee registration, certification and continuing education. These functions should not be put into the hands of anyone outside group.
- Preparer Tax Identification Numbers (pTIN) should be issued to all qualified preparers and should be required on all returns.
- Continuing Education, 12 hours per year of tax education, by IRS sanctioned coursework; Circular 230 "Light" should be developed with standards appropriate for unenrolled preparers.
- No Testing, but a 30-hour, basic course in taxation to maintain a PTIN if a preparer is found to have high error rates.
- "Grandfathering in" of preparers with 3-5 years experience and history of signing returns (if testing is required).
- All prepared returns must have a PTIN number, with the error rates tracked, and educational remediation or revocation of PTIN number for fraud or abuse. Since we as a profession are in a partnership with the IRS, we understand the importance that any new program be mutually beneficial. We believe that our guidelines will lead to lower error rates and less filing abuse and would enhance the competence and reputation of the professional preparer community that we represent. Further, we are opposed to giving anyone group the control over registration, certification, continuing education, or testing. Rather, the IRS Office of Professional Responsibility should oversee the process, with the cooperation, support, and input of the many committed professional groups now serving the tax profession. On behalf of the NSTP Board, I want to thank you for the opportunity to comment on this important initiative. Please contact me if you have any questions.

Respectfully submitted,
Paul LaMonaca, CPA
Professional Education Director

Subject: Notice 2009-60

NSTP COMMENTS ON IRS TAX RETURN PREPARER INITIATIVE

Introduction

Our organization, the National Society of Tax Professionals (NSTP), is comprised of tax practitioners with varying types of professional credentials and different levels of practice. Thus, we are uniquely qualified to offer our membership's views on Treasury's proposal for a comprehensive plan regulating tax return preparers. We have been tracking the comments received by the IRS thus far and want to focus our comments on the specific proposals set forth by other participants in this process.

About NSTP

The National Society of Tax Professionals (NSTP) is a nonprofit organization founded in 1985 and is made up of approximately 5000 members who are certified public accountants, attorneys, enrolled agents, financial planners, and other tax professionals.

About one-half of our members are unenrolled preparers. NSTP supports the tax professional community with educational programs designed to enhance professional ability and knowledge.

Every NSTP Member is required to abide by the NSTP Code of

Professional Conduct which is designed to promote high standards of competence and ethics within the profession and to promote mutual respect, cooperation and communication between the Internal Revenue Service and tax professionals.

Summary of Recommendations

The tax system should encourage the use of reasonably priced tax preparation services, especially by less sophisticated taxpayers who have difficulty filing their own returns. The IRS should carefully target any new regulatory scheme at the known abuses, while being careful not to overburden the honest, ethical tax preparers who currently practice with a high degree of professionalism.

With these principles in mind, we contend that any new regulatory scheme for tax professionals should be based on the following basic principles:

- All paid preparers should be registered with the IRS and should be assigned a preparer tax identification number (PTIN) which they are required to use on all returns.
- All paid preparers should be required to complete a minimum number of hours annually of continuing professional education including 2 hours of ethics training.
- Unenrolled tax preparers should not be subject to an entry examination to qualify for preparing returns. For this segment of the practitioner community, testing does not demonstrate actual hands-on ability and is not a fair measure of expertise.
- Many unenrolled practitioners are highly competent and serve their clients well. If they are forbidden to practice going forward, the existing enrolled community could not absorb the overwhelming number of new clients. Tax preparation fees would go up. Many taxpayers could be underserved, and the IRS workload and staffing expense would also increase dramatically due to the overflow.
- The IRS should develop a media campaign to educate the public that a return preparer who does not sign the tax return is breaking the law. We believe it is the "self prepared" returns from unscrupulous tax preparers which account for much of the earned income tax credit (EITC) fraud and other intentionally erroneous tax returns.

The IRS should target its enforcement measures at this type of abuse.

Our views on the specific proposals under consideration by the IRS follow.

Competency Exams

At the July 30th IRS return preparer forum, representatives of several consumer groups including the AARP, the National Community Tax Coalition, and the Center for Budget and Policy Priorities advocated examinations as well as continuing education, arguing that the public would better understand a tax preparer's credentials if testing were required. While we understand their frustration with misconduct by some tax preparers, a testing program will not address the type of abuses these groups are seeking to prevent primarily, unsigned, erroneous returns and refund anticipation loans. In fact, burdensome and expensive testing could actually harm the populations served by these very groups.

Testing will be a barrier to entry for unenrolled preparers, many of whom now work with underserved populations in rural areas and with lower-income taxpayers. If testing is required, what do you do with the many thousands of tax preparers who have been in practice for years?

Administratively, it would be difficult, if not impossible, to test them all at once. Further, it would be unnecessary for many who have practiced for years and have developed an expertise.

Frank Degen of the National Association of Enrolled Agents (NAEA) has advocated enrollment-type testing for all unenrolled preparers. Jim Nolen of the National

Society of Accountants (NSA) also has advocated that all preparers take some type of qualifying examination to obtain certification such as that now offered by the

Accreditation Council for Accountancy and Taxation (ACAn, which is affiliated with NSA. We believe these groups do a good job serving their particular membership.

However, it does not escape our notice that the positions they are advocating are self serving and would greatly extend their reach. Imposing NAEA and NSA certifications on the entire unenrolled industry would be a disservice to taxpayers, making tax preparation services more expensive and less accessible to the vast majority of the public who do not have complicated tax returns but still need help in preparing them. Adopting the certifications of either of these groups also would concentrate oversight in the hands of a few private organizations, which we believe is inappropriate.

Waiving In With No Exam

While we strongly oppose testing, we realize that this option is under consideration by the IRS. Thus, we want to go on record to state that if testing is adopted, there must be a provision for grandfathering in experienced tax preparers. We suggest the model used by some State Bar Associations for "waiving in" out-of-state professionals.

That is, allow a tax preparer to waive in to the program without testing if they can show they have been practicing for 3 to 5 years and have been regularly signing tax returns during that time. A similar rule already is in place for revenue agents who have worked for the IRS for 5 years. Circular 230 allows them to obtain the Enrolled Agent credential without testing. In short, if the IRS implements a testing program, there should be some method of becoming grandfathered in based on a preparer's demonstrated professional experience.

Alternatives to Testing

PTIN Registration

Practitioner registration should form the cornerstone of the new regulatory scheme. All practitioners should be required to have a unique preparer tax identification number (pTIN) which they must use on all returns. This requirement needs to be enforced by stiff penalties on preparers who prepare a return for any sort of remuneration without signing and inserting a PTIN.

Some commenters have suggested an additional penalty for taxpayers who pay a preparer who does not sign the return. We believe a taxpayer penalty would be unenforceable and would prevent taxpayers from turning in noncomplying preparers.

Another option would be to have a series of questions for the taxpayer with regard to who prepared the return. If the taxpayer has to clearly indicate on the return that a paid preparer was not used, it

will make the taxpayer more aware that nonsigning preparers are breaking the law. More importantly, a vigorous public relations campaign should be undertaken by the IRS to convince taxpayers of the dangers to them of submitting an unsigned preparer return.

Track Performance by PTIN

Use of a standard PTIN by all preparers will enable the IRS to develop metrics to track a preparer's returns for accuracy. The IRS already statistically analyzes the error rates for taxpayers and paid preparers on return submissions. This program could be expanded to identify practitioners whose returns exhibit a high error rate, a high reversal rate, or any fraudulent positions. Depending on the type of return problems, the practitioner could then be required to take more training courses or could be suspended from practice.

Continuing Professional Education

Circular 230 sets forth continuing education rules for enrolled agents which require that they take approximately 16 hours of courses per year. Most State Bar

Associations require at least 12 hours of continuing legal education each year. State CPA societies generally require upwards of 30 hours of continuing professional education each year.

We are in favor of requiring a minimum number of continuing education hours in taxation each year for unenrolled preparers, including at least two hours in ethics. It seems appropriate that the minimum be set at 12 hours per year given the limited type of practice engaged in by unenrolled preparers.

These preparers could take the courses from any qualifying sponsor as defined in current §10.6(f) of Circular 230. The NSTP currently offers many qualifying courses that are appropriate for the type of practice engaged in by our membership. Thus, we encourage the IRS to allow a wide variety of professional organizations to apply and qualify for course certification.

Office of Professional Responsibility and Circular 230

We do not object to giving the IRS Office of Professional Responsibility (OPR) broader authority to oversee all tax professionals, including unenrolled preparers, to enforce their use of the PTIN and to impose sanctions or suspend from practice those persons exhibiting gross incompetence or fraudulent behavior. However, we do not believe that unenrolled preparers should be subject to all of the very complex and broad rules of Circular 230. Much of Circular 230 is concerned with standards for the issuance

Of tax opinions, including "covered opinions" and "reliance opinions", which clearly do not apply to the type of services provided by unenrolled preparers. As long as unenrolled preparers continue to be restricted in their practice and subject to the Code's preparer penalties, extension of the complete set of Circular 230 rules to them is overkill.

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On behalf of the NSTP Board, I want to thank you for the opportunity to comment on this important initiative. Please contact me at (703)536-6008 if you have any questions.

Respectfully submitted,
Paul LaMonaca, CPA
Professional Education Director
NSTP Board of Directors